FILE COPY

IN THE

Supreme Court of the United States

OCTOBER TERM, 1944

No. 22.

FRED TOYOSABURO KOREMATSU,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

BRIEF OF JAPANESE AMERICAN CITIZENS LEAGUE, AMICUS CURIAE.

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Parker & Company, Law Printers, Los Angeles. Phone TR. 5206.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1944

No. 22.

FRED TOYOSABURO KOREMATSU,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

BRIEF OF JAPANESE AMERICAN CITIZENS LEAGUE, AMICUS CURIAE.

The Interest of the Japanese American Citizens League.

The Japanese American Citizens League is a national organization of American citizens of Japanese ancestry organized in 1930. When Lt. Gen. J. L. DeWitt issued the military evacuation orders directed only against persons of Japanese descent, the Japanese American Citizens League, at the request of the military authorities cooperated in the evacuation without, however, conceding its constitutionality.

When after the evacuation, American citizens of Japanese ancestry were not permitted by the War Department to serve in the armed forces, the Japanese American Citi-

zens League urged the War Department to afford to American citizens of Japanese descent an opportunity to contribute their share to the winning of the war by offering their services and their lives. As a result of these efforts the War Department and the Selective Service System finally made provisions for Americans of Japanese descent first, to volunteer; and then to be inducted into our Armed Forces. The first to volunteer his services in the specially created Japanese American Combat Team was Mike Masoaka, secretary of the Japanese American Citizens League. Mr. Masoaka is now in Italy as a member of our Armed Forces.

The members of the Japanese American Citizens League have thus recognized their *obligations* as American citizens; in this proceeding, by this brief *Amicus Curiae*, they claim their *rights* as American citizens—including the right to be free from discrimination because of race or ancestry.

Summary of Argument.

There is no reasonable basis for the military exclusion orders affecting American citizens of Japanese ancestry. Neither the numbers nor the distribution of those of Japanese ancestry on the Pacific Coast constituted a "military necessity." Few Americans of Japanese ancestry are dual citizens and dual citizenship was no legitimate basis for the evacuation orders. Japanese language schools were neither unique nor subversive and their graduates have served America loyally in the present crisis. The religious views of resident Japanese and Americans of Japanese ancestry constituted no danger to internal security and provided no legitimate reason for evacuation. The Kibei were a small group whose members could have been easily located and controlled; many of them are patriotic Americans who have performed extensive wartime service for this country. The many effective measures applied by the Department of Justice before removal made evacuation unnecessary. The doctrine of "protective custody" is un-American and dangerous to our institutions. There was no public threat to persons of Japanese ancestry, and no genuine popular demand that they be removed. Contrary to unsubstantiated assumptions and assertions, Americans of Japanese ancestry are well assimilated and loyal. Abundant and reliable information was on hand to prove this at the time of the evacuation. Evacuation was not a military necessity but was due to false reports of sabotage in Hawaii, to the activities of anti-oriental pressure groups and unscrupulous competitors; and most important of all to the admitted race prejudice of the Commanding General who issued the evacuation orders.

ARGUMENT.

There Was No Reasonable Basis for the Military Exclusion Orders Affecting American Citizens of Japanese Ancestry; and Hence They Are Unconstitutional.

1. The Grounds Which Are Claimed Constitute the Alleged Military Necessity for Evacuation Reviewed.

When the Attorney General of the United States announced to the nation that the President, by Executive Order, had authorized the Secretary of War or those to whom he delegated this power, to eject citizens or aliens from designated areas, he admitted that he "knew of no other instance when this country had set up a plan which could involve a mass evacuation."[1] The manner in which this grant of power has been exercised has been a matter of grave concern to all students of government and of minority questions. Attorney General Francis Biddle has himself raised this question, declaring:

> "The legal theory on which they (citizens of Japanese ancestry) were excluded was that anyone—citizen and alien alike—could be moved out of a war area for its protection. The theory was valid enough. But, like most theories, its ultimate test depended on the reasonableness of its exercise."[2]

In commenting upon a much less drastic restriction upon the individual and the group, the imposition of a

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[1]Special Washington, D. C. dispatch of Lewis Wood to the *New York Times*, February 20, 1942. *New York Times*, February 21, 1942.

[2]In "Democracy and Racial Minorities," an address delivered at the annual dinner of the Jewish Theological Seminary of America, November 11, 1943. Printed in *Common Ground*, Winter, 1944.

curfew regulation, one of the Justices of this Court has already stated:

> "The result is the creation in this country of two classes of citizens for the purposes of a critical and perilous hour—to sanction discrimination between groups of United States citizens on the basis of ancestry. In my opinion this goes to the very brink of constitutional power."[3]

In this opinion Mr. Justice Murphy made it clear that he was able to accept the validity of even this limited restriction only because he felt that "the military authorities could have reasonably concluded at the time that determinations as to the loyalty and dependability of individual members of the large and widely scattered group of persons of Japanese extraction on the West Coast could not be made without delay that might have had tragic consequences."[4]

But in his opinion Mr. Justice Murphy comes essentially to the same position as that which has been cited for Attorney General Biddle, namely, that the validity of orders and restrictions imposed by the military under the authority of the Executive Order depends upon the "reasonableness of its exercise." In regard to this he declares:

> "I do not wish to be understood as intimating that the military authorities in time of war are subject to no restraints whatsoever, so that they are free to impose any restrictions they may choose on the rights and liberties of individual citizens or groups of citizens in those places which may be designated as 'military areas.' While this Court sits, it has the in-

[3] *Hirabayashi v. United States*, 320 U. S. 81, p. 111.

[4] *Ibid.*, pp. 112-13.

escapable duty of seeing that the mandates of the Constitution are obeyed. That duty exists in time of war as well as in time of peace, and in its performance we must not forget that few indeed have been the invasions upon essential liberties which have not been accompanied by pleas of urgent necessity advanced in good faith by responsible men."[5]

The same line of reasoning runs through the opinion of the Court and the other concurring opinions. Speaking for the Court Mr. Chief Justice Stone said:

"Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality. For that reason, legislative classification or discrimination based on race alone has often been held to be a denial of equal protection. We may assume that these considerations would be controlling here were it not for the fact that the danger of espionage and sabotage, in time of war and of threatened invasion, calls upon the military authorities to scrutinize every relevant fact bearing on the loyalty of populations in the danger areas."[6]

The inference is that if relevant and available facts bearing upon the loyalties of elements of the population were *not* considered, if decisions were made on the basis of misinformation or misconception, if substantial evidence is produced of unreasonable prejudice against a group on the part of the man or men who requested the authority and then utilized it against the group in question, this Court

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[5]*Ibid.*, p. 113.

[6]*Hirabayashi v. United States*, Opinion of the Court, p. 100.

will reject all invasions of the liberties of citizens that go beyond the curfew regulations; and would want, we feel sure, even to review its past decision concerning curfew regulations in the light of new evidence of this nature which may be placed before it.

The concurring opinion of Mr. Justice Douglas rests, in good measure, upon the assumption of the good faith of the military commander who ordered the curfew regulations and upon the belief that he entertained and utilized available information, for he says:

> "If the military were right in their belief that among citizens of Japanese ancestry there was an actual or incipient fifth column, we were indeed faced with the imminent threat of a dire emergency. We must credit the military with as much good faith in that belief as we would any other public official acting pursuant to his duties."[7]

That he would not uphold even the curfew regulation if he were convinced that factors not directly related to the military situation were involved Mr. Justice Douglas indicates when he states:

> "Loyalty is a matter of mind and of heart not of race. That indeed is the history of America. Moreover, guilt is personal under our constitutional system. Detention for reasonable cause is one thing. Detention on account of ancestry is another."[8]

In the other concurring opinion, Mr. Justice Rutledge, in describing the latitude which a military officer's duties

[7] *Hirabayashi v. United States*, Douglas, J., concurring, pp. 105-06.

[8] *Ibid.*, pp. 107-08.

justify without bringing the judicial power into play, wrote these significant words:

> "The officer of course must have wide discretion and room for its operation. But it does not follow there may not be bounds beyond which he cannot go and, if he oversteps them, that the courts may not have power to protect the civilian citizen."[9]

The action being contested here as unconstitutional is the forcible ejection of American citizens from their homes and places of employment at short notice, under penalty of law, by military force, and without accusations, hearings or trials. In the upheaval much of the personal property of these American citizens have been lost. In their absence, among other things, their names have been erased from civil service rolls[10] and legislation (such as the Lowrey Act of California) has been passed which authorizes seizure of their property.[11] As a result of their prolonged exclusion, interests and possessions have had to be abandoned or sacrificed because they have not been able to properly safeguard or care for them.[12] If a rela-

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[9] *Hirabayashi v. United States*, Rutledge, J., concurring, p. 114.

[10] For data concerning the progressive elimination of Americans of Japanese ancestry from city, county and state civil service rolls see: *Local Civil Liberties Committees Reports 1941-1942*, American Civil Liberties Union, 170 Fifth Ave., New York City, June, 1942, p. 1; Howard Costigan, "The Plight of the Nisei," *The Nation*, Feb. 14, 1942, p. 185; *California Daily News (Kashu Mainichi)*, Los Angeles Japanese community newspaper, Feb. 2, 11 and Mar. 5, 20, 1942; *Los Angeles Japanese Daily News (Rafu Shimpo)*, Feb. 11, Apr. 3, 1942; *Pacific Citizen* (weekly newspaper published by the Japanese American Citizens League at Salt Lake City, Utah), Oct. 15 and Nov. 26, 1942.

[11] California State Assembly Bill 1975 as amended by the State Senate May 5, 1943.

[12] Edmonia Grant, "That All May Be One," pamphlet issued by National Intercollegiate Christian Council, 600 Lexington Ave., New York, N. Y., Oct. 9, 1942, p. 2; *New York Times*, Mar. 10, 1942, special dispatch from San Francisco of Correspondent Davies, Mar. 1942; Richard C. Mills, "Second Report on the Japanese Evacuation Situation," Y. M. C. A. and Y. W. C. A., 715 South Hope St., Los Angeles, Calif., Mar. 24, 1942, pp. 1-2.

tively mild curfew regulation imposed upon citizens brought us "to the very brink of constitutional power" it is evident that a mass evacuation of American citizens without hearing or trial has plunged us into unwelcome depths below.

We conclude, then, that much less serious infringements of the rights of citizens than evacuation have been countenanced by the courts thus far only because of an alleged military necessity and because the courts, at a critical time, desired to give the military commanders every legitimate aid and every benefit of the doubt in the prosecution of the war.

Nor has the Military or the Government ever tried to defend or to explain evacuation except on the grounds of "military necessity." At the time of the declaration of war there were persons of German ancestry, of Italian ancestry, and of Japanese ancestry on the West Coast, individuals who might be identified in the popular mind with one or another of the three most powerful nations against which we were fighting. In the case of those of German and Italian ancestry, citizens were in no way disturbed in their movements or material interests and such restrictions as were placed upon the aliens were speedily removed. In the case of those of Japanese ancestry curfew, travel and contraband restrictions were imposed on citizens as well as on aliens and finally the whole group, regardless of citizenship, was removed from the area designated by the military commander and placed in detention.

If military necessity and not race prejudice dictated this differential treatment, two main claims must be established: (1) that the danger was so real and immediate and the people of Japanese ancestry constituted so danger-

ous an element that the drastic action taken and the rejection of alternatives were reasonable, and (2) that the Caucasian groups of enemy ancestry were manifestly less dangerous.

In connection with the second point particularly, it would seem necessary to establish that white men in America are judged by the same criteria which are applied to yellow men. If part of the "military necessity" for evacuating persons of Japanese ancestry from the West Coast relates to their numbers, it is relevant to determine whether those of German or Italian ancestry were not as numerous or more numerous. If part of the charge is that "Japanese" were concentrated in certain areas—that, to use the provocative language of the military, they were "deployed" around sensitive areas and "surrounded" important installations, it is only justice to determine where the Germans and Italians were "deployed" and what they "surrounded." If the causes for alarm were language schools, dual citizenship, or organizations encouraged by the homeland, it is but elementary justice and honesty to inquire into the status, activities or attitudes of those of German and Italian backgrounds on these points.

There is no longer need to speculate concerning the nature of the alleged "military necessity" because of which the military commander of the Western Defense Zone ordered evacuation. Two documents are now available in which the General responsible for the orders offers his explanation of why the step was taken.[12a]

The first document is the Memorandum from General J. L. DeWitt to the Secretary of War dated February 14,

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[12a] The matters contained in the Government's Brief in the *Hirabayashi* case, of which this Court took judicial notice in its opinion in that case, are substantially the same as the material contained in these documents.

1942, in which the Commanding General of the Western Defense Command and Fourth Army requested the authority for removal which later was delegated to him. The subject of the Memorandum is given as "Evacuation of Japanese and *Other* (emphasis ours) Subversive Persons from the Pacific Coast," a title which we feel well reveals the bias, conscious or unconscious, of the source from which it came. This significant document became available July 19, 1943, when it was published as an Appendix to Chapter III of General DeWitt's *Final Report on the Japanese Evacuation From the West Coast.*[13]

The first section of the Memorandum details the destruction that theoretical enemy action or sabotage could accomplish along the Pacific Coast. The second section, with which we are primarily concerned, contains the reasons for proposing that all those of Japanese ancestry, including American citizens, be evacuated. The core of the thinking is reflected in this excerpt:

> "In the war in which we are now engaged racial affinities are not severed by migration. The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil, possessed of United States citizenship, have become Americanized," the racial strains are undiluted."[14]

From this extraordinary doctrine of "race warfare" the General drew an equally extraordinary conclusion. "It, therefore, follows that along the vital Pacific Coast over 112,000 potential enemies, of Japanese extraction, are

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[13] *Final Report: Japanese Evacuation from the West Coast 1942*, United States Government Printing Office, Washington, 1943. Transmitted to the Secretary of War by the Chief of Staff July 19, 1943. This volume will be referred to hereafter as *Final Report* of General DeWitt.

[14] *Ibid.*, p. 34.

at large today." By the application of a strange variety of logic the blameless behavior of those of Japanese ancestry is turned against them, for the General concludes the section with this observation: "The very fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken."

Under the heading of "Disposition of Other Subversive Persons" General DeWitt wrote;

> "Disposed within the vital coastal strip already mentioned (note that Germans and Italians are never 'deployed') are large numbers of Italians and Germans, foreign and native born, among whom are many individuals who constitute an actual or potential menace to the safety of the nation."[15]

The General then recommended that military areas be designated from which all "Japanese," all alien enemies and other suspected persons be excluded. He recommended that all of the enemy aliens, including Germans and Italians, *be interned, under guard*. He further suggested that American citizens of Japanese ancestry be offered the opportunity to accept voluntary internment under guard at the same places selected for their alien parents, and that those who declined this "offer" be excluded from *all* military areas. A refinement of the General's plan was that "adult males (above the age of 14 years) be interned separately from all women and children until the establishment of family units can be accomplished."[16]

From this we gather that on February 14, 1942 General DeWitt deemed it a "military necessity" that all Ger-

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[15] *Ibid.*, p. 35.

[16] *Ibid.*, p. 37.

man and Italian aliens, as well as persons of Japanese ancestry, be ejected from the West Coast and interned. He even envisaged clearing the entire eight states under his command of them. A storm of protest arose when the General threatened to evict the 82,000 German and Italian enemy aliens of the three West Coast States.[17] This time he was dealing with Caucasian groups and with segments of the population whose friends and relatives were economically and politically entrenched. Needless to say, the General's conception of what "military necessity" demanded in the way of the treatment of civilians was executed only in regard to persons of Japanese ancestry. It is now obvious that if General DeWitt's formula had been followed in regard to Germans and Italians much needless hardship and injustice would have resulted. There is no reason to believe that General DeWitt was more correct in his construction of what "military necessity" demanded in respect to the Japanese and their children than he was in the case of Germans and Italians.

The other document purporting to state the reasons, events and situations which together crystalized to form General DeWitt's definition of "military necessity" is his *Final Report*.[18] In his foreword the Secretary of War,

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[17]For some indication of the reaction which this evoked see, Report of the *Select Committee Investigating National Defense Migration* (Tolan Committee), 77th Congress, 2d Session, House Report No. 1911, Mar. 19, 1942, pp. 22-25; and Report of the *Select Committee Investigating National Defense Migration*, 77th Congress, 2d Session, House Report No. 2124, May 13, 1942, pp. 25-31. Hereafter these two Reports will be referred to respectively as *Tolan Committee Report* of March, 1942, and *Tolan Committee Report* of May, 1942.

[18]*Final Report* of General DeWitt, particularly pages vii and viii and pp. 3-24.

to whom it was transmitted, writes: "The considerations which led to evacuation as well as the mechanics by which it was achieved, are set forth in detail." The "considerations," though their treatment is somewhat expanded, are essentially the same ones that have been outlined in General DeWitt's earlier Memorandum. The people of Japanese ancestry are described as populous, concentrated in residence and as an "unassimilated, tightly knit racial group." It is asserted that their loyalties were unknown, that no means existed for distinguishing the loyal from the disloyal, and that time did not permit any attempt to do so. The danger to which early Japanese successes exposed the Coast is emphasized. The existence of Japanese organizations and Japanese language schools is cited. It is charged that individuals and groups from among those of Japanese ancestry made contributions to the Japanese war effort during the phase of the China war which preceded Pearl Harbor. The existence of a group of American citizens who have lived and studied in Japan (kibei) is given considerable attention. A relationship between these facts and unauthorized radio communications, signal lights and attacks on ships leaving West Coast ports is inferred. It is strongly hinted that the dropping of an incendiary bomb near Mt. Emily in Oregon by a seaplane, and the shelling of the coast by submarines near Santa Barbara, California and Astoria, Oregon were made possible by the activities of residents of Japanese ancestry.

All of these "considerations" will be examined and it will be established that those of them which are not pre-

posterous and false are at the very least exaggerated and distorted.

It is particularly important to distinguish fact from fancy in questions relating to evacuation and to separate the findings of trained and reliable investigators from the hyperbole which General DeWitt borrowed from the professional and semi-professional anti-Orientalists of the West Coast, because this Court, in the *Hirabayashi* decision, accepted without question a large number of the General's assertions and "reasons" as they were presented in the Government's brief in that case. There is a vast difference between banishing a people from several states and ordering a curfew and we do not anticipate that the "reasons" accepted as justifying curfew, even if they were to go unchallenged, would be stretched by this Court to cover the more serious abridgment of citizenship rights at issue in this case. But it is disquieting that sweeping and unsubstantiated generalizations which run counter to the weight of evidence and the findings of impartial inquiry were accepted by this Court and even quoted with approval in its opinion in the *Hirabayashi* case. As we review the evidence, therefore, we shall call attention to those fundamental points where, in our view, the Court relied upon inadequate or misleading material and therefore reached conclusions which we believe are in error.

2. Neither the Numbers nor Distribution of Those of Japanese Ancestry Constituted a "Military Necessity."

The unabashed exaggeration and distortion of facts which created a "military necessity" where none really existed extended to many phases of the situation and involved many subtleties, but it can be most easily and clearly demonstrated in the realm of numbers. Let us examine, for instance, the figures which General DeWitt cited in his memorandum to the Secretary of War wherein he requested authority to proceed with evacuation. The General said:

> ". . . along the vital Pacific Coast over 112,000 potential enemies, of Japanese extraction, are at large today. There are indications that these are organized and ready for concerted action at a favorable opportunity."[19]

Understandably the Secretary of War was impressed by this strong representation. But let us consider the facts. There were, at that time, a total of 112,353 persons of Japanese ancestry in the three West Coast States. This included men and women, citizens and aliens, the well and the sick, infants and the aged. A General who includes women, children, the aged and the infirm among "enemies . . . ready for concerted action" must know better, and may legitimately be suspected of engaging in some special pleading. We doubt that General DeWitt was really terrorized by the 7,000 children under five years of age or the 15,500 children under ten years of age included in his figure.[20]

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[19] *Ibid.*, p. 34.

[20] *Wartime Civil Control Administration, Statistical Division, Bulletin 12*, March 15, 1943, pp. 8-14.

Let us see precisely how "dangerous," even in a theoretical or statistical sense, the West Coast population of Japanese ancestry really was. Of the 112,353 total, 49,499 were women.[21] Males under 14 years of age numbered 12,792. There were 2,147 males over 65 years of age.[22] Over a thousand of the remaining males were hospitalized, institutionalized or were suffering from infirmities which would reduce their military usefulness to zero.[23] This leaves less than 46,000 males between the ages of 14 and 65, an age range which, of course, includes many who are too young or too old to serve any cause. Moreover, at the time General DeWitt sounded his alarm, several thousand young men from this group had either volunteered or had been drafted into the United States Army. Ignoring for the moment the unsubstantiated charge that the population of Japanese extraction was sympathetic to Japan in her contest with the United States, we see that the number of persons about whom the General could conceivably be at all concerned *was just one-third of the figure he quoted.*

To reduce this whole question of population and characteristics of population to proper perspective and proportion it may be well to review the basic facts concerning the numbers and distributions of those of Japanese extraction in the United States and on the West Coast. On mainland United States in 1940 there were a total of 126,943 persons of Japanese ancestry.[24] This is less than

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[21] *Ibid.*, p. 4.

[22] *Ibid.*, p. 8.

[23] *Ibid.*, pp. 153-54; *Final Report* of General DeWitt, p. 200.

[24] *Tolan Committee Report* of May, 1942, Table 2, p. 94.

one-thousandth of our population. Of these only 47,307 were Japanese in the correct sense of the term; the rest, approximately two-thirds, were American citizens.[25] The Japanese or aliens constituted just .0003 of our national population. Never has so much din been raised over so few people! Never could a populous nation better afford to be generous and just without jeopardizing internal security!

In the decade 1930-1940 the "Japanese" population dropped to 126,943 from 138,834,—a reduction of 11,887 or 8.6 percent.[26] The male population decreased by 12 percent and the female population by 3.7 percent during this period.[27] It may be added that this is the only stock in the country which showed a decrease for the decade. Between 1930 and 1940 Whites increased by almost 18,000,000. One million were added to the Negro population, and there was a gain of 3,000 in the Chinese population. Even the "disappearing Indian" showed an increase.[28] It seems like an especially poor time to fret over the number of "Japanese" in this country.

Even on the West Coast, where the Japanese were alleged to be numerous and concentrated, they formed but a minute fraction of the total population. The 40,869 Japanese nationals[29] comprised but .004 of the nearly 10,000,00 inhabitants of the West Coast.[30] All persons

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[25] *Ibid.*, Table 3, p. 94.

[26] *Ibid.*, Table 2, p. 94.

[27] *Ibid.*, p. 91.

[28] These figures are from *Sixteenth Census of the United States, for 1940.*

[29] *Wartime Civil Control Administration, Bulletin 12*, p. 4.

[30] *Ibid.*, p. 2.

of Japanese ancestry in this area formed but .011 of the total population in these three states. In California those of Japanese ancestry formed no more than .013 of the population in 1940.[31] In 1930 they had constituted .017 of the population.[32] In the State of Washington, all those of Japanese ancestry constituted .008 of the population. In the State of Oregon the pitifully small group of 4,071 persons of Japanese ancestry comprised no more than .003 of the population of that state.[33] In point of fact the State of Nevada had a higher proportion of Japanese in its population in 1940 (.0042) than did Oregon and so did the State of Utah with its .004.[34]

Not only are the people of Japanese ancestry a helpless and insignificant minority in point of numbers but their age distribution makes them particularly innocuous. Oriental exclusion has been in effect since 1924. The immigrants, the aliens, are therefore necessarily long-time residents of this country, and most of them are advanced in age. The average age of the alien male at the time of the outbreak of the war was approximately 55 years.[35] In 1940 more alien males (36.04 percent) fell into the 55-64 age group than into any other.[36] Since the male immigrants tended to establish families rather late in life, after they had achieved some economic security, their children are only now growing to maturity. In 1940 thirty-nine

[31] *Ibid.*, p. 4.

[32] *Idem.*

[33] *Idem.*

[34] *Wartime Civil Control Administration Bulletin 12*, p. 7.

[35] *Ibid.*, p. 8.

[36] *Tolan Committee Report* of May, 1942, Table 4, p. 95.

percent of the citizens were 15 years of age or younger.[37] The termination of all Oriental immigration twenty years ago prevented a middle-aged group from forming and has divided the population into the extremes of youth and age. All this has bearing on the amount of aid and comfort that could conceivably be lent an enemy, something that General DeWitt must have known and should have taken into consideration.

Equally erroneous are the charges that the Japanese have concentrated in vital areas. It has been claimed time and again that they came in disproportionate numbers and for no good purpose to the Los Angeles area. The simple truth is that there were a substantial number of persons of Japanese ancestry in the Los Angeles area because a large percentage of all the people of California live in the Los Angeles area. For example, 2,904,596 people lived in the Los Angeles Metropolitan area in 1940.[38] This is 42 percent of the 6,907,387 people of the State.[39] At this time in this same area 38,350 persons of Japanese ancestry were living. They represented slightly less than 41 percent of the 93,717 persons of Japanese ancestry in the State.[40] In other words, in spite of all the talk about "Little Tokyo," the "Japanese" were not quite represented in the Los Angeles area in proportion to their numbers in the State.

The same is true of population proportions in the San Francisco Bay area, a region which the Japanese had sup-

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[37] *Wartime Civil Control Administration*, Bulletin 12, p. 8.

[38] *Sixteenth Census of the United States, for 1940, Population, Second Series, Characteristics of the Population (Dept. of Commerce): California.*

[39] *Ibid.*

[40] *Ibid.*

posedly "surrounded" and around which they had allegedly "deployed." San Francisco's 634,536 people comprised .09 of the people of the State in 1940. But the 5,280 persons of Japanese ancestry in San Francisco constituted only .056 of the total of this group in the State.[41] Clearly, if any group was "concentrating" in San Francisco out of proportion to its numbers in the State, it was not the "Japanese."

Nor is there even a grain of truth in the insinuations or assertions that the people of Japanese ancestry were changing residence to "deploy" in the vicinity of military installations and public utilities. After an extensive survey of the distribution of the West Coast "Japanese" over the years the Tolan Congressional Committee concluded that "the main geographic pattern of Japanese population in California was pretty well fixed by 1910."[42] The figures of the 1940 census, reproduced by the Tolan Committee in its Report, indicate that the "Japanese" population was remarkably stable and that, because of the general decline in population there was a proportionate decrease in numbers in most sections. In fact, the 1940 census reveals that in the preceding decade population gains of "Japanese" were registered in only 16 of the 58 counties of the State of California. In nine counties the gain was less than 50. In only five counties was the increase over 100. In but two counties was the increase as much as 300. And in these counties there were general gains of population which dwarfed the Japanese contribu-

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[41] *Ibid*

[42] *Tolan Committee Report* of May, 1942, p. 93.

tion.[43] There is no mystery about where those of Japanese ancestry settled, or why they settled there. Such studies as Brown's *The Japanese of Florin*[44] and Starnes' *History of the Japanese People in Oregon*[45] have demonstrated the economic basis of the population trends. As for the military installations and utilities, it is well known that the "Japanese" who were found living in their vicinity had been carrying on their economic tasks peacefully in these regions long before (often, as the *Tolan Committee Report* indicates, 30 years before) these sites were ever considered for defense installations and, indeed, before the international tensions which made arming necessary were even envisaged.[46]

The tactics used in discrediting the Japanese and in creating an impression of "military necessity" are particularly reprehensible and dangerous, for, if they are allowed to go unchallenged they may become the means by which any group can be similarly victimized. They consist primarily in the solemn recitation of facts and figures about one group in such a manner as to disguise that these circumstances are equally true of all groups. It is as though crime statistics relating to one group were separately and repeatedly publicized without regard to the general picture of which they are a part, until a definite conviction is established in the public mind that the group in question is criminal and undesirable.

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[43] *Ibid.*, p. 97.

[44] Alice M. Brown, *Japanese in Florin*, Greencastle, Pa., 1943.

[45] Marjorie R. Stearns, *History of the Japanese People in Oregon*, University of Oregon, Eugene, Oregon, 1937.

[46] *Tolan Committee Report* of May, 1942, p. 97.

For example, it is constantly reiterated that a little less than 72 percent of those of Japanese ancestry in the State were "concentrated" in seven California counties (Los Angeles, Sacramento, San Francisco, Alameda, Fresno, San Joaquin and Santa Clara).[47] But it is never mentioned that these counties are the population centers of the State within which more than two-thirds of *all* the people lived.

Let us see what happens when the same reasoning and statistical juggling are applied to Germans and Italians. In the same seven counties live 53,989 of the 71,727 residents of California who were born in Germany.[48] This is over 75 percent of foreign-born Germans. The German aliens in these counties numbered 15,327, and this turns out to be nearly 79 percent of the 19,418 German aliens of the State. Evidently the Germans, particularly the enemy aliens, were "deploying" much more successfully than the Japanese. If we take the seven counties in which the German-born are most numerous (by a remarkable coincidence they include six of the seven counties which have been cited for the Japanese) we find that 79 percent of them have "concentrated" therein. And 80 percent of all the German aliens of the State have managed to crowd into seven choice counties.

The Italians must have been receiving directions from abroad concerning where to settle, too, if the same line of reasoning be applied, for 68 percent of the Italian-born of the State (67,926) and 67 percent of the Italian aliens (34,700) resided in the same seven counties where the

[47] *Ibid.*, p. 92.

[48] *Ibid.*, Table 4, p. 232.

presence of the Japanese was regarded with suspicion.[49] If the seven counties containing the greatest number of Italian-born be selected (and five of them are the same ones in which the largest number of Japanese reside) it will be found that 71,890 or 72 percent of the State's 100,911 Italian-born persons are involved.

In other words, if it had been admitted or indicated that the population distribution for the Japanese was *more normal* and *less concentrated* in areas of military importance than that of the Germans and Italians, how much possibility would there have been of convincing the President, the Secretary of War or the Courts, that the Japanese were *the* dangerous element?

Further, if as much attention had been directed to the number of Germans and Italians in the State as was devoted to the existence of Japanese, public temper and ultimate decisions might have been quite different. Japanese aliens (which simply means those born in Japan, since Japanese are not permitted to naturalize) numbered 40,869 in the three West Coast states. In the same area the Italian-born numbered 113,846,[50] a figure greater than that for the Japanese aliens and Americans of Japanese ancestry combined. Though Italians are able to naturalize, the 57,797 Italian aliens of the West Coast outnumbered the Japanese aliens by many thousands.[51] If all those of Italian ancestry are considered there is simply no comparison between the number of Italians and the number of Japanese on the West Coast. Also, it should

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[49] *Idem.*

[50] *Tolan Committee Report* of May, 1942, Table 2, p. 230.

be noted that the Italian aliens are in average a younger and more vigorous group than are the Japanese. The largest group of Italian aliens falling into one age category (30.22 percent) are between 45 and 54 years of age.[52] Moreover, the large percentage (50.77 percent) of aliens among foreign-born Italians cannot be attributed to recency of arrival. Eighty-six and a half percent of these aliens entered the United States in 1924 or before.[53]

Numerical comparisons between Germans and Japanese on the West Coast give much the same result. In 1940 there were 97,080 persons on the West Coast who were born in Germany.[54] With their children and grandchildren (the manner in which "Japanese" are totaled) they constitute a much larger group. Among them are 24,199 aliens.[55] The Germans, like the Italians and the Japanese are "concentrated" in California, where 71,727 have made their homes.[56]

Obviously, if anyone had sought to capitalize on these figures it would have been comparatively easy to do so. For instance, it would not have been difficult to arouse the apprehensions of the citizens of the San Francisco-Oakland Metropolitan District by confronting them with glaring headlines which advised them that they were beset and surrounded by 42,861 foreign-born Italians and 24,387 foreign-born Germans (compare with 4,676 foreign-born

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[52] *Tolan Committee Report* of May, 1942, Table 12, p. 243.

[53] *Ibid*., Table 11, p. 242.

[54] *Ibid*., Table 2, p. 230.

[55] *Idem*.

[56] *Idem*.

Japanese in the same area) and that the Golden Gate bridge and the harbor installations were all but in enemy hands. And had such alarmist methods prevailed (General DeWitt, it will be remembered, very nearly set them in motion) we would have still another minority "problem" on our hands in this country today.

The story of the great numbers and peculiar concentration of the Japanese on the West Coast is a myth. It affords no reasonable basis or support for the special treatment meted out by the military to all persons of Japanese descent, and to no person of any other descent. It is important to set forth these facts clearly and in detail, because *in Hirabayashi v. United States* this Court apparently accepted without question the figures given by General DeWitt and cited in the Government's brief. In the Opinion of the Court the figure of 112,000 potentially dangerous persons (which included infants, the aged and young men in our own armed services) is quoted with approval, and it is assumed in addition that some unusual concentration of those of Japanese ancestry existed.[57] In the concurring opinion of Mr. Justice Douglas the matter of numbers and the alleged concentration near "key points" also looms large.[58]

It does not follow that impressions concerning the characteristics of the people of Japanese ancestry as a group which this Court considered sufficient reason for the imposition of a curfew would be accepted as a serious enough threat to justify evacuation. But in those matters

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[57] *Hirabayashi v. United States*, 320 U. S. 81, p. 96.

[58] *Ibid.*, p. 105.

which concern the appeal of the few and the weak to the highest Court in the land, any deviation from truth and perspective is inexcusable. And as the issues mount in importance it is not too much to ask that this Court inquire even more carefully into those figures and arguments which would picture us as a people divided and in conflict.

3. Few Americans of Japanese Ancestry Are Dual Citizens and Duel Citizenship Was No Legitimate Basis for Evacuation.

One of the principal arguments used by General DeWitt and his spokesmen to justify a "military necessity" compelling evacuation an argument accepted by this Court in the Hirabayashi case has been that the people of Japanese ancestry constituted a danger out of proportion to their numbers because of their ties with Japan. The "tie" that is always mentioned, since the aspect of evacuation which is most difficult to explain is the banishment of American nationals, is dual citizenship. It is claimed that a large proportion of American citizens of Japanese ancestry are also citizens of Japan, and responsible men and even judges have asserted that Japan claims all American-born children of her nationals as her citizens too. This reasoning was a factor in the earliest decision dealing with evacuation.[59] The person on whose behalf this early petition was filed is an American woman of Japanese ancestry who is married to a citizen of the Philippine Common-

[59] United States District Court, Western District of Washington, No. 498, Oral Opinion, Wednesday, Apr. 15, 1942. In the matter of the Petition of Mary Asaba Ventura and Husband for a Writ of Habeas Corpus. Printed in *Tolan Committee Report*, May, 1942, pp. 44-48.

wealth. On the matter of dual citizenship Judge Black said in his opinion:

> "The petitioners allege that the wife 'has no dual citizenship,' that she is in no 'manner a citizen or subject of the Empire of Japan.' But how many in this court room doubt that in Tokyo they consider all the Japanese ancestry though born in the United States to be citizens or subjects of the Japanese Imperial Government?"[69]

These sentences contain a number of misconceptions.

Emigration from Japan was not legalized until 1885 and so no question of the status of the children of Japanese residing abroad arose until after that date. In fact, because of her political isolation, nationality laws were not codified by the Japanese until 1899. Since most of her trade and political contacts were with European powers at that time Japan borrowed the Continental *jus sanguinis* rule and provided that "A child is a Japanese if his or her father is a Japanese at the time of his or her birth." It happened, however, that most Japanese immigrants came to countries of the Western hemisphere (the United States, Brazil) in which citizenship is determined by birth on the soil of the nation *(jus soli)* regardless of ancestry. Consequently children born of Japanese immigrants in these countries were claimed by Japan on the basis of ancestry and by the country in which they were born in accordance with the *jus soli* rule. Under international law they were dual citizens, owing obedience to law and allegiance to either of these two countries within whose territory they actually were. To the vast majority

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[69] *Ibid.*, p. 47.

of young Americans of Japanese ancestry who did not intend to live in Japan or to exercise their Japanese citizenship, dual allegiance was a source of embarrassment, for it only called forth suspicion and misunderstanding in respect to them.

Consequently Japanese residents of the United States and Americans of Japanese ancestry began to petition the Japanese government to liberalize its nationality code and to make expatriation or single citizenship possible.[61] In 1916, in response to this pressure, the Japanese law was altered to make easier the expatriation of American-born dual citizens. But certain restrictions were retained in regard to males of military age, and the young Americans and their parents were not satisfied.[62]

Resolutions were passed and pleas and petitions were again forwarded to Japan.[63] By this time Japanese parents were already defying Japanese law which required them to register their children at a Japanese consulate. Buell reports that of 2,345 Japanese births in the State of Washington for 1915-1917, only 1,770 were registered with the Japanese consulate.[64]

By Imperial Ordinance No. 262 issued on November 15, 1924 and effective December 1, 1924 the Japanese residents and American citizens of Japanese ancestry gained their point. The Ordinance waived the *jus sanguinis* principle of the former nationality law in respect to chil-

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[61]The text of the most important of the petitions is found in K. K. Kawakami, *The Real Japanese Question*, The Macmillan Company, New York, 1921, p. 174.

[62]The details of law of 1916 are given in Yamato Ichihashi, *Japanese in the United States*, Stanford University Press, 1932, p. 323.

[63]K. K. Kawakami, *The Real Japanese Question*, pp. 186-87.

[64]R. L. Buell, "Some Legal Aspects of the Japanese Question," *American Journal of International Law*, Vol. XVII, January, 1923, p. 34.

dren born of Japanese nationals in the United States and certain other countries of the Western Hemisphere. The gist of the Ordinance and its Supplementary Provision is this. Children born of Japanese nationals in the United States and certain other countries lose Japanese citizenship *from birth* unless their parents or legal representatives register them at a Japanese consulate within 14 days of birth and unless the intention to retain Japanese citizenship is expressed at the time of the registration. Also, provision was made whereby those who were born before December 1, 1924 and who therefore automatically became dual citizens, could renounce their Japanese citizenship.[65]

The Japanese in America began to utilize the terms of this Ordinance at once. In 1930 Dr. E. K. Strong of Stanford University and his associates found, only six years after the change of law, that 40 percent of the citizens of Japanese ancestry seven years old and older who were living in California held American citizenship only. Since these were persons born *before* 1924, they could have reached that status only by definite renunciation of their Japanese citizenship. These figures and proportions are often unscrupulously used. There are writers and even lawyers who are not above using Dr. Strong's figures to "prove" that 60 percent of this group were dual citizens in 1930, and thus create an impression that approximately half of these American citizens are also citizens of Japan. They do not add that this really repre-

[65]The full translation of this and other Japanese Nationality Laws are found in Kiyo Sue Inui, *The Unsolved Problem of the Pacific*, Tokyo, 1927, pp. 300-20.

ents *a 40 percent reduction in six years* and that the downward trend has continued.[66]

Dr. Strong also found, in 1930, that of those American-born children who were from one to six years of age, two-thirds were American citizens only. In other words, they had not been registered at the consulate within the stipulated two week period and had never acquired Japanese citizenship. Dr. Strong found that the proportion of the unregistered constantly grew, and this tendency has continued.[67]

It has now been indisputably established that very few Americans of Japanese ancestry are dual citizens. In February of 1943 a registration was required of all persons of Japanese ancestry 17 years of age and over who were in War Relocation Centers. Citizens were asked whether their birth had ever been registered at a consulate for the purpose of establishing a claim to Japanese citizenship. A check on the reliability of the answers was possible because parents were also asked if they had ever so registered children. For male citizens, the questionnaire used was also a Selective Service System form, upon which it was plainly printed that any person falsifying or concealing a material fact is liable to a fine not to exceed $10,000 or ten year's imprisonment, or both.[67a]

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[66] E. K. Strong, *Japanese in California*, Stanford University Publications in Education-Psychology, Vol. 1, No. 2, 1933, pp. 46-47; E. K. Strong, *The Second-Generation Japanese Problem*, Stanford University Press, 1934, pp. 21-22; 142-43.

[67] *Idem.*

[67a] Aliens, citizen women 17 years of age and over, and citizen males above military age filled out form WRA-126, Rev., War Relocation Authority Application For Leave Clearance. Male citizens of military age filled out DSS Form 304A, Selective Service System: Statement of United States Citizens of Japanese Ancestry.

We give herewith the results of the registration at the Manzanar Relocation Center, as an example. This is an excellent Center to use, for it is likely that there is as great or greater a proportion of dual citizens of Japanese descent at Manzanar as there is at any other place. Manzanar houses the people of Terminal Island, who were one of the most isolated of the Japanese groups. It has also drawn its residents from "Little Tokyo" in Los Angeles where as much social solidarity as exists would be evidenced. Yet of the 3,541 citizens who registered, only 852 or 24 percent were dual citizens. The percentages for men and women were about the same. This does not mean that 24 per cent of the American citizens of Manzanar are also dual citizens. As Dr. Strong and others have pointed out, there has been less and less tendency for parents to register their children as time has gone on. Citizen parents practically never register their children. As a matter of fact, unless they themselves are dual citizens, they have no legal right to do so. A spot-check at the same Center of 600 citizens who were under 17 years old and therefore too young to register, revealed only a sprinkling of dual citizens. Since a large proportion of the citizens are 17 years of age or younger, this survey indicates that not more than ten to fifteen percent of Americans of Japanese ancestry are dual citizens.[68] In other words, as a result of their own efforts, the Japanese in this country have reduced the number of dual citizens by 85 percent and have eliminated any "problem" which may be associated with the subject except as it exists in the minds of uninformed and unreasonable men. That

[68]Report on Registration from Manzanar Relocation Center to Dillon S. Myers, National Director, War Relocation Authority, 1943.

General DeWitt based his argument of "military necessity" so substantially upon the subject of dual citizenship, reveals the weakness of the "military necessity" formula and its fictional character.

The Japanese in America have sought to eliminate what little dual citizenship yet exists. Japanese law requires the presentation of a birth certificate before expatriation is permitted. Many who were born some time ago, or in rural regions where few legal formalities were observed, cannot meet this requirement. Therefore, before the war began, Americans of Japanese ancestry born before December, 1924 were requesting the Japanese Government to simplify the expatriation process still further.[69]

This summary indicates how wide of the mark is the common belief that the Japanese government claims all Americans of Japanese ancestry. Obviously if this were true, Japan would not have provided a specific means by which these individuals could avoid the acquisition of Japanese citizenship or could renounce it if they had acquired it. That Japan expects nothing of Americans of Japanese ancestry was expressed as late as March 1941 by Yosuke Matsuoka, Japan's foreign minister, who said:

> "Your place is with your country, the United States of America. If the time ever comes that you must serve her to the utmost against the country of your ancestors, your duty is plain—you are American, regardless of whether in your mind, you are accepted as such and regardless of blood ties."[70]

It is important to establish the true facts concerning dual citizenship, for misinformation and misunderstand-

[69] *The Japanese-American Review*, New York City, January 25, 1941.
[70] *Ibid*, March 22, 1941.

ing on this question were a very real part of the "military necessity" by which evacuation is justified. On February 6, 1942, in response to the clamor on the part of a committee of West Coast congressmen over alleged dual citizenship of Americans of Japanese ancestry the Department of Justice and the War Department issued a joint statement which included the following sentences:

> "The government is fully aware of the problem presented by dual nationalities, *particularly among the Japanese* (emphasis our). The appropriate government agencies are now dealing with the problem."[71]

Precisely why the Departments of War and Justice should have been so much concerned over the meager amount of dual citizenship which those of Japanese ancestry retain, when Germans and Italians provide so much more fertile a field in this regard, is hard to imagine.

The German nationality code conforms to the *jus sanguinis* rule. It asserts that the child of a German acquires by birth the citizenship of the father. Therefore the American-born children of alien German males are all dual citizens, and there are hundreds of thousands of them. Moreover the children of hundreds of thousands of German immigrants who died without naturalizing are likewise dual citizens.[72] In addition, Section 25 of the German code provides that German citizenship is not lost by one who before acquiring foreign citizenship has secured on application the written consent of the competent

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[71] *A Week of the War*, Office of Facts and Figures, February 6, 1942.

[72] Richard W. L. Flournoy and Manley C. Hudson, *Collection of Nationality Laws*, 1929, pp. 309-12.

authorities of his home state to retain his citizenship."[73] Thus even naturalized American citizens of German background may be dual citizens. How many have made use of this provision it is difficult to say, but under the pressure of Nazi propaganda, it may be assumed that the number is considerable. And there are other means of retaining German citizenship abroad.

Italian law is even more ingenious in the creation of dual citizens. Again the *jus sanguinis* rule which Americans of Japanese ancestry induced the Japanese government to abandon in regard to them is present, for Article I of the Italian code reads: "One is a citizen by birth: (1) When his or her father is a citizen." In addition another article stipulates, ". . . an Italian citizen born and residing in a foreign nation, which considers him to be a citizen of its own by birth, still retains Italian citizenship, but he may abandon it when he becomes of age or emancipated."[74] Thus every child of an alien Italian male is a dual citizen and remains one unless, at the proper time, he takes steps to extinguish his Italian citizenship. It would be interesting to know if many have taken this step. There are nearly three-quarters of a million Italian aliens in this country.[75] Many of them have large families. It is safe to say that there are well over a million dual citizens of Italian ancestry, and that many thousands of them live on the West Coast.

There is one other interesting aspect of Italian nationality law. Persons of Italian descent who have become American citizens through naturalization or as a result

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[73] *Ibid.*, p. 312.

[74] *Ibid.*, pp. 363-64

[75] *Tolan Committee Report*, May, 1942, p. 230.

of expatriation from their former citizenship are subject to military call by Italy. On this point the law states. "The loss of citizenship . . . does not exempt one from the obligations of military service. . . ."[76]

The conclusion is obvious and unavoidable. No persons of foreign background have won so complete a legal and political emancipation from the land of their parents than have the Americans of Japanese ancestry. That *they* have been the ones singled out for evacuation on the grounds of dual citizenship would be amusing if it were not so tragic. And it is an ominous symptom of our sick times; one that slogans will not cure. If truth will not safeguard a minority group at a time of crisis, there is no "freedom from fear."

It is of particular importance to have a clear understanding on the subject of dual citizenship for it is a topic which entered significantly into the *Hirabayashi* decision. There this Court said:

> "Congress and the Executive, including the military commander, could have attributed special significance, in its bearing on the loyalties of persons of Japanese descent, to the maintenance by Japan of its system of dual citizenship. Children born in the United States of Japanese alien parents and especially those children born before December 1, 1924, are under many circumstances deemed, by Japanese law, to be citizens of Japan. No official census of those whom Japan regards as having thus retained Japanese citizenship is available, but there is ground for the belief that the number is large."[77]

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[76] Flournoy and Hudson, *Collection of Nationality Laws*, 1929, p. 364.

[77] *Hirabayashi v. United States*, 320 U. S. 81, pp. 97-98.

In support of its contention that there is very likely a large number of dual citizens of Japanese ancestry, this Court included in a footnote, the figures which led it to such a view:

> "Statistics released in 1927 by the Consul General of Japan at San Francisco asserted that over 51,000 of the approximately 63,000 American-born persons of Japanese parentage then in the western part of the United States held Japanese citizenship. Mears, *Resident Orientals on the American Pacific Coast*, pp. 107-08, 429. A census conducted under the auspices of the Japanese government in 1930 asserted that approximately 47% of American-born persons of Japanese parentage in California held dual citizenship. Strong, *The Second Generation Japanese Problem* (1934), p. 142."[78]

In the beginning of this section we have corrected these figures, or at least brought them up to date, but we do not agree that these data which this Court used gave "ground for the belief that the number is large." On the contrary it seems obvious to us that the true picture which we have presented could have been anticipated from these very statistics. Fifty-one thousand is 80 percent of 63,000. In 1927, therefore, only three years after the 1924 Ordinance, 20 percent of the American-born of Japanese parentage had renounced or had failed to acquire Japanese citizenship. According to the very statistics to which this Court pointed, three years later, in 1930, the number of dual citizens had shrunk by 33 percent more, to 47 percent of the American-born. If 53 percent of the American-born lost or failed to acquire dual citizenship in the six years from 1924 to 1930, and if the pace of the reduction of dual citizenship was an accelerated one, there is no reason why the military com-

[78] *Ibid.*, p. 98.

mander or this Court should have reasonably supposed that, after twelve more years, the number of dual citizens would be large. We are forced to assume that, in an effort to refrain from annulling a military order, in time of war, this Court did not apply the standards of mathematics, logic and criticism to the Government's claims.

We call attention, moreover, to the curious phrasing of the Court's reference to "the maintenance by Japan of its system of dual citizenship." This is, unfortunately, the type of language used by the West Coast race-baiters, who try to imply that there is something different and sinister about the Japanese nationality law and concept of citizenship. Certainly this Court must know that no country, not excepting Japan, has "a system of dual citizenship." The nationality laws of each country recognize but one citizenship, its own, at least within its own boundaries. Dual citizenship exists under international, not national law, and arises because of the conflict of nationality codes.[79] Certainly the United States does not have any "system of dual citizenship," but its nationality code, too, in so far as it conflicts with others, can be said to "create" dual citizens. The United States claims as citizens children of its nationals, even though these children are born abroad.[79a] If these children are born in countries, which

[79]For a discussion of dual citizens and of the circumstances under which many countries claim as nationals persons who are also citizens of the United States see: Edwin M. Borchard, *The Diplomatic Protection of Citizens Abroad*, New York, 1927, pp. 19, 544-90; Richard W. Flournoy, "Dual Nationality and Election," *Yale Law Journal*, April, 1921, Vol. XXX, No. 6, p. 545; Richard W. Flournoy, "Revision of the Nationality Law of the United States," *American Journal of International Law*, Vol. XXXIV, 1940, pp. 43-44; C. C. Hyde, *International Law, Chiefly as Interpreted by the United States*, 1922, pp. 667-69; John Bassett Moore, *A Digest of International Law*, 1906, pp. 518-717. Note that Moore's 200 page recital of friction between our government and others over dual citizenship claims and conflicts of nationality laws contains references to nearly every country of the globe *with the exception of Japan*.

[79a]Nationality Act of 1940, Chapter II, Sec. 201 (a), (d), (e), (g), in *Naturalization Laws*, Compiled by Elmer A. Lewis, United States Government Printing Office, Washington, 1942, pp. 113-14.

like our own, also regard as citizens those born on its soil, dual citizens have been brought into being. As a result of the conflict of nationality codes most of the American-born children of Frenchmen, the Swiss, Russians, Turks and as we have already pointed out, Germans and Italians, are, among others, dual citizens. The principal difference between the policies of these countries and Japan in respect to this issue is that for years our State Department, without result, has been trying to reduce the area of conflict by bilateral agreements with them or by inducing them to pass provisions such as the Japanese Ordinance of 1924. This country has many legitimate charges and complaints against Japan. But in the heat of conflict let us not *invent* some where they are least likely to exist, and then use these inventions as a basis for discrimination against hapless American citizens. The truth is that few countries have released children born of nationals living abroad as freely and completely as has Japan. After a careful review of the facts the Solicitor of the War Relocation Authority has written in a formal opinion:

> "There seems to be a popular impression that 'dual citizenship' of Nisei is a 'Japanese doctrine.' This is far from the truth. In fact dual citizenship may arise whenever different countries apply different tests of citizenship . . . . the Japanese policy as evidenced in the legislation of 1924 has not been an aggressive adherence to the principles of citizenship by descent, but, on the contrary, has represented an apparent attempt to conform to conditions in this country by requiring prompt action on the part of parents wishing to preserve the Japanese citizenship of the Nisei."[79b]

[79b] Philip M. Glick to the Director of the War Relocation Authority, "Dual Citizenship," Opinion No. 55, March 26, 1943, pp. 1, 6.

4. Japanese Language Schools Were Neither Unique nor Subversive and Their Graduates Have Served America Loyally in the Present Crisis.

It has been charged or intimated that the supplementary schools for the teaching of the Japanese language were creations and instruments of Imperial Japan for the dissemination of Japanese national ideals among the American-born. This, too, has been one of the building blocks of the "military necessity" edifice. And it is a fragile support at best for this ponderous structure. No one, as far as we know, has yet advanced anything even faintly resembling evidence to prove that the language schools carried on improper activities.

The "testimony" against the language schools, as in the instances referred by this Court in the *Hirabayashi* case,[790] is usually a mention of their numbers and an unsubstantiated and repetitious contention that dubious practices were being carried on in them.

On the other hand, every impartial investigation—and there have been several of them—has demonstrated that the schools were performing only the functions for which they were designed. Therefore, when this Court stated in the *Hirabayashi* decision: "Some of these schools are generally believed to be sources of Japanese nationalistic propaganda, cultivating allegiance to Japan,"[791] it was accepting without question gossip which originates in West Coast anti-Oriental circles and was ignoring serious and trustworthy inquiries which tell quite another story.

The facts are these. The first Japanese language school was established in 1896 by a Christian minister in con-

[790] *Hirabayashi v. United States*, p. 97.

[791] *Idem.*

nection with religious work.[80] It followed the pattern of German, Chinese and Portuguese language schools which had already been established.[81]

Under a grant made by the Carnegie Corporation to Stanford University, Professor Reginald Bell conducted a rigorous investigation of West Coast language schools. Dr. Bell found that in 1921 California added to her school law, under Section 1534 of the Political Code of California, a section dealing with foreign-language schools. This law placed the schools under the Department of Public Instruction of the State of California. It established standards of education and patriotism which teachers had to meet before they might practice their profession. For instance, the language school teachers were required to be conversant with English as well as Japanese and had to pass an examination in American History. Textbooks were regulated and hours of study were controlled. On May 4, 1927, on the basis of the results of a test case relating to a similar bill elsewhere,[82] California Attorney General U. S. Webb ruled that the California law was invalid. It is interesting that in ruling against state control of language schools this Court cited a case pertaining to a German language school (*Meyer v. Nebraska*, 262 U. S. 390), concerning which it had been ruled:

> "evidently the Legislature has attempted to interfere with the calling of modern language teachers, with the opportunities of pupils to acquire knowledge, and with the power of parents to control their own. . . ."

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[80]H. G. Colket, "Suppressing Japanese Schools in Hawaii," *The Nation*, November 22, 1922.

[81]Ralph Kuykendall and Herbert E. Gregory, *A History of Hawaii*, Macmillan Company, 1933, p. 327.

[82]*Farrington, Governor, et al. v. T. T. Tokushige et al.* (decided February 21, 1927).

Thus from 1921 to 1927 the Japanese language schools of California were under the supervision and control of the State of California. If they were subversive, it was because the Department of Public Instruction of California was subversive. Dr. Bell found that although legal requirements were waived after 1927 as a result of the court decision, the local language school boards in most instances voluntarily retained the standards and requirements which had been set. He found that the approved textbooks were being used and that constant revisions to introduce materials pertinent to the American scene were being made.[83]

Another intensive study of the Japanese language schools was made by Svensrud.[84] She found that the schools were regarded by the students as distinctly supplementary, that the essential purpose was to establish a common medium of communication between the first generation and the second, and that the schools "are serving the same purpose as once did the German and Scandinavian language schools, which have died out during the last few generations."

Because of the dark hints which emanate from some quarters, what Svensrud established concerning subject matter taught and textbooks used is worth quoting:

> "The strongest objection which has been raised in this country towards the language schools of the Japanese has been that they foster anti-American ideas. This accusation is without basis. A thorough study has been made of all the textbooks to eradicate such possibilities."

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[83]Reginald Bell, *Public School Education of Second Generation Japanese in California*, Stanford University Press, 1935, pp. 23-25.

[84]Marian Svensrud, "Attitude of the Japanese Toward Their Language Schools," *Sociology and Social Research*, January-February, 1933, pp. 259-64.

Smith,[85] Strong,[86] Palmer,[87] Mears,[88] Millis,[89] and all other competent and acknowledged students of the subject have offered like testimony. Palmer reminds us:

> "Similar schools have been conducted by the Chinese; and also by the Germans and many other nationalities in the fornr of parochial schools. The Japanese schools are merely supplementary to the public schools and not a substitute for them as are parochial schools."

Millis, a noted investigator and research man who conducted a thorough study, asserts:

> ". . . these schools are not intended to perpetuate the traditions and moral concepts of Japan. They are supplementary schools, and at the worst there is much less in them to be adversely criticized than in the parochial schools attended by so many children of South and East European immigrants."

As a matter of fact the only trained investigator to adversely criticize the Japanese language schools has been the Japanese scholar and historian, Y. Ichihashi, who has argued that the time available to young Americans for supplementary language study is so inadequate for the mastery of a difficult language that it is a waste of their time and of their parents' money to maintain the schools.[90]

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[85]W. C. Smith, *Americans in the Making*, Appleton-Century, 1939, p. 302; W. C. Smith, *Americans in Progress*, Edwards Bros. Inc., Ann Arbor, Michigan, 1937, p. 164.

[86]E. K. Strong, *The Second-Generation Japanese Problem*, pp. 6, 201, 206.

[87]Albert W. Palmer, *Orientals in American Life*, Friendship Press, New York, 1934, p. 54.

[88]E. G. Mears, *Resident Orientals on the Pacific Coast*, Chicago, 1927, p. 358.

[89]H. A. Millis, *The Japanese Problem in the United States*, 1932, p. 265.

[90]Y. Ichihashi, *The Japanese in the United States*, 1932, pp. 329-33.

Moreover, one would suppose that the War Department and the United States Government would be somewhat embarrassed in raising the language school issue at this time. American citizens had scarcely been evacuated and placed in detention, partly on the grounds that they had been subverted in language schools; when the frantic call went out for bi-lingual interpreters, instructors for Army and Navy Japanese language schools, and persons to man listening posts and to aid in intelligence work. The lists of graduates of the Japanese language schools were combed and are still being combed to find suitable candidates. A call for "hundreds of instructors" in the Japanese language went out as early as March 4, 1942, and young Americans of Japanese ancestry were urged by the Japanese language papers to respond.[91] In August, 1942, representatives of the Navy's Japanese Language Schools were in the Centers to recruit patriotic Americans from behind barbed wire.[92] In January, 1943, sixteen young American citizens of Japanese ancestry enlisted in the Army from the Minidoka Relocation Center in order to enter the language school at Camp Savage, Minnesota.[93] Similar enlistments have several times occurred in all the Centers, and the brilliant and devoted services of these young people, at home and abroad, have been repeatedly praised by our military leaders. Much of the effectiveness of these programs was made possible by the existence of the Japanese language schools. The fact that large

[91] *California Daily News* (*Kashu Mainichi*), March 4, 1942.

[92] *Pacific Citizen*, August 13, 1942.

[93] *Pacific Citizen*, January 14, 1943.

numbers of these language school students have served America loyally against Japan *is the irrefutable proof that the schools did not teach allegiance to Nippon.*

The utilization of the existence of Japanese language schools as an argument for removal serves as an excellent example of discriminatory and selective thinking, for it is well known that there were forty-seven Italian language schools on the Coast, too, some of them with large enrollments. In San Francisco alone, for instance, there were four such Italian language schools.[94]

5. The Religious Views of Resident Japanese and Americans of Japanese Ancestry Constituted No Danger to Internal Security and Provided No Legitimate Reason for Evacuation.

Another of the frail props of the "military necessity" argument was that the Japanese in this country are "Emperor worshippers" or Shintoists and therefore have an emotional and fanatical interest in a Japanese victory.

Shintoism or shrine worship is the worship in Japan of local gods associated with the harvest, health, abundance, etc., or the shrines that are sacred to them.

State Shinto, by which expansionists and militarists sought to solidify the whole nation in terms of common symbols, is the nation-wide reverence of those shrines and dieties particularly associated with the royal family. But State Shintoism is a recent phenomenon and the Japa-

[94] *Los Angeles Times*, December 5, 6, 1941.

nese in America are long-time residents. The immigrants to America were untouched by this movement and were not cordial to its introduction.

It is a sad commentary on the degree to which unreason ruled that at the very time the people of Japanese ancestry were being evicted because of their alleged Shinto connections, thousands of them were attempting to carry on their Christian services and devotions. We reproduce, without further comment, the column "Church Activities Tomorrow," which appeared February 21, 1942 on the same page of the English Section of *The California Daily News* (Kashu Mainichi) that carried the text of the Executive Order which authorized the evacuation:

Methodist Church

3500 S. Normandie Ave.

9:30 a.m.—Sunday church school. Special classes for upper Jr. High and Sr. High.

10:30 a.m.—English service. Sermon, "Winning Souls Christ."

11:00 a.m.—Japanese service.

11:30 a.m.—John Wesley League meeting. Kenneth Ozeki, devotional chairman.

1:30 p.m.—Fellowship Circle.

West L. A. Community

1913 S. Purdue Ave.

6:30 a.m.—Prayer Circle.

9:00 a.m.—Sunday school.

10:15 a.m.—English service. Conducted by Rev. Nicholson.

11:00 a.m.—Japanese service. Sermon, "An Unanswered Prayer," Rev. J. Fujimori.

Christian Church

820 East 20th St.

9:30 a.m.—Sunday school teachers' prayer circle.

9:45 a.m.—Sunday school; High school forum; College of life.

11:00 a.m.—Worship service. Japanese sermon, "Run the Race With Patience," Rev. Unoura. English sermon, "Pride and Prejudice," Rev. Fertig.

Baptist Church

E. 2d and Evergreen

6:30 a.m.—Nisei Friends of Jesus Prayer Circle for all denominations Rev. Morikawa, speaker.

9:30 a.m.—Sunday school for all ages.

11:00 a.m.—Worship service.

2:30 p.m.—Intermediate B. Y. P. U. Meeting.

Hollywood Presbyterain

4011 Clinton Street

9:30 a.m.—Sunday school.

10:30 a.m.—Junior church.

10:45 a.m.—English and Japanese worship service.

5:00 p.m.—Christian Endeavor meeting.

Free Methodist Church

210 S. Chicago St.

9:15 a.m.—Sunday school.

10:30 a.m.—Y. P. worship service.

11:30 a.m.—Adult worship service.

7:00 p.m.—Nisei Church evening service. Victor Fujiu, Speaker.

St. Mary's Church

961 S. Mariposa Ave.

7:30 a.m.—Holy communion in English.

9:30 a.m.—Primary school.

10:30 a.m.—English service. Sermon, "Christ in Gethsemane," Rev. J. H. M. Yamazaki.

Fortunately it is no longer necessary to debate whether persons of Japanese ancestry are Shintoists or not. After a long and detailed study the Community Analysis Section of the War Relocation Authority has issued a report in which it is revealed that exactly .4 percent of the people of Japanese ancestry in the ten Relocation Centers are followers of the Shinto Faith.[95] And, of course, the interest of most of these is in sect and not in state Shinto. This study, moreover, indicates that of the Buddhists, most belong to the Shin and Zen sects, groups which have a record of resistance to state Shintoism in Japan.[96]

It becomes increasingly evident, therefore, that those who shouted about Shintoism and those who were responsive to the clamor had no idea whatever of what they were talking about. This is simply another instance of traditional Know-Nothingism, with a new label and a new victim. Instead of the Catholic who cannot be a good citizen because of his religion, it is the Japanese-American, and instead of the Pope it is the Mikado to whom allegiance is allegedly rendered. No word of condemnation is too strong for this attempt to make religious affiliation a test of loyalty.

It is significant, too, that while the proponents of evacuation have been vowing to save "Christian civilization from Shintoists" the actual representatives of religious bodies in America have consistently opposed evacuation and detention. There is not a major religious denomination in America—Protestant, Catholic or Jewish which has not passed an eloquent resolution on this

[95] War Relocation Authority, Community Analysis Report No. 9, Washington, D. C., May 15, 1944, p. 7.

[96] *Ibid.*, pp. 3-4.

question. Recently the statements of twenty-two major religous bodies were brought together in one pamphlet under the title of *The Concern of the Church for Christian and Democratic Treatment of Japanese Americans.*[97] To read this booklet is to sense the disjunction in thinking that has grown up in this country between the Church and certain departments of our government.

6. The Kibei Were a Small Group Whose Members Could Have Been Easily Located and Controlled; Many of Them Are Patriotic Americans Who Have Performed Extraordinary War-Time Services for This Country.

One of the "proofs" of the ties with Japan which General DeWitt and his apologists constantly cite in explanation of their decision to evacuate all persons of Japanese ancestry, is the existence of a group of Americans of Japanese ancestry called kibei, "returned to America," who were educated in Japan. Fantastic figures and proportions relating to the kibei have been invented in order to justify evacuation. Let us therefore consider the facts as they are revealed in the study undertaken by the War Relocation Authority in 1942 and published January 28, 1944.[98]

Of Americans of Japanese ancestry 72.7 percent have never been in Japan, much less studied there. Another 14.4 percent, while they have visited Japan, have had no schooling in that country. In this group fall those who have taken short summer trips to the Orient or who have

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[97] *The Concern of the Church for Christian and Democratic Treatment of Japanese Americans*, published by The Committee on Resettlement of Japanese Americans, 297 Fourth Avenue, New York 10, New York, April, 1944.

[98] War Relocation Authority, Community Analysis Report No. 8, Japanese Americans Educated in Japan, Washington, D. C., January 28, 1944.

gone with family members for short periods to see sick or dying relatives for a last time. Only 12.2 percent have had three or more years of schooling in Japan.[99]

If American citizens of Japanese ancestry who are under twenty years of age are considered we find that 86.8 percent have never been in Japan. Another 11.1 percent, though they have had a glimpse of Japan, have had no schooling there. Only 1.8 percent of the citizens under twenty years of age have had three or more years of schooling in Japan and can by any stretch of the imagination be called kibei.[100] In other words, the practice of sending children to Japan for schooling had just about ceased, and over 98 percent of these young Americans could have been automatically and easily cleared of the blanket accusation leveled against them had hearings been held.

Nor does it follow that the 12.2 percent who have lived and studied in Japan for three years or more have all been subjected to Japanese nationalistic propaganda. Of those who fall in this category, 26.8 percent are forty years of age or older. Their education in Japan was received during the period before the seizure of power by the military, when rising liberalism was a force in Japan, particularly in education circles.[101]

The War Relocation study also proves that many kibei returned to America to avoid (this in the case of dual citizens) service in the Japanese army.[102] These individuals can hardly be considered Japanese patriots or per-

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[99] *Ibid.*, p. 3.

[100] *Idem*

[101] *Idem*, 6

[102] Japanese Americans Educated in Japan, p. 4

sons upon whom the Japanese government could or would count very strongly. Also, it should be remembered that many of kibei volunteered for the United States Army or were drafted. Many more have been sought, because of their special knowledge of Japan and the Japanese language, for posts in our Army and Navy, language schools and for strategic services of the most important and confidential type. The Armed Services have depended upon these people at crucial times and places, and the faith placed in them has never been betrayed. It ill becomes General DeWitt, as a representative of the Army, to vilify the kibei as a group or to use them as an instrument to justify his panicky and unnecessary banishment of all persons of Japanese ancestry from the West Coast.

It should be remembered, moreover, that real kibei are quite conspicuous and easily distinguished. If hearing boards had been established, which was the very least the authorities should have done, young people lately returned from Japan who cannot speak the English language well could have been thoroughly investigated without ruining the lives and fortunes of thousands of Americans who have had no ties of schooling or residence in Japan whatever.

Moreover, the War Relocation Authority study cited above indicates that many kibei, recoiling from the lack of freedom and the hardships suffered in Japan, became ardent American patriots upon their return to this country. In fact, the too ready assumption that a person who is sent from the United States to Japan for a few years will inevitably become pro-Japanese reveals much more about those who make the assumption than it does about those who have been in the foreign land. We suggest

that the willingness "to sell America short," the belief that those who have experienced conditions in both countries will inevitably favor Japan, betrays an unconscious distrust of democracy and a contempt for the dynamic molding power of our institutions which constitute a more serious threat to our security and unity than any which a small group of kibei could possibly present.

It is lamentable that this Court took so seriously, in the *Hirabayashi* case, the alarmist claims concerning the size and character of the kibei group.[103] There is no reason, on the basis of the evidence, to take for granted, as did General DeWitt, that this country cannot compete successfully for the loyalty and good-will of citizens who have also known life under the harsh conditions of totalitarianism.

7. The Reasons Given by General DeWitt for Exclusion Are Examined and No Military Necessity Is Found to Have Existed.

General DeWitt, in his explanation of evacuation, claims that he was forced to this course because individuals of Japanese ancestry and their organizations had carried on pro-Japanese activities along the coast.[104] He cites the sending of tinfoil and monetary contributions to Japan. What he does not explain, however, is that these activities took place *before* hostilities between the United States and Japan began and that they ceased, for the most part, when tension between these two countries became great. In other words all that General DeWitt is really asserting that some Japanese nationals in the United States sided

[103] *Hirabayashi v. United States*, p. 97.

with Japan against China *as long as the conflict was confined to these two powers.* The sentiments of these Japanese, it should be added, were shared by many Caucasians who did not wish to see trade relations with Japan disturbed or who naively believed that a strong and victorious Japan would impose peace on a troubled Orient. And General DeWitt does not give us the other face of the coin, the story of anti-fascist American Japanese who stood in picket lines to protest the shipment of scrap-iron to Japan—scrap-iron which was provided and sold to Japan by white Americans.[105]

The practice of punishing Japanese residents in America and Americans of Japanese ancestry *after* the start of hostilities with Japan for what was done *before* the United States was involved, is shabby business at best. It is well-known that great numbers of persons of German ancestry and Italian ancestry sympathized with the mother countries before the United States was precipitated into the war and they showed this sympathy in many concrete ways. When the United States went to war most of these people explained that as long as they considered the issue to be a contest between British Imperialism and the needs of Germany and Italy they admittedly sided with the latter countries, but they asserted that now that their adopted or native land, the United States of America, was attacked their loyalty was to this country without reservation. We accepted that these protestations of Germans and Italians and of their organizations were made in good faith and, unless there was some convincing evidence to

[105] See hearings before the Select Committee Investigating National De-

the contrary, in any individual case we assumed that the change of heart was genuine. The same fair and reasonable attitude should have been maintained toward people of Japanese ancestry. That it was not is an indication of prejudice based on ancestry. The people of Japanese ancestry, even those who supported Japan against China, made it abundantly clear, as we shall prove, that in case the United States entered a conflict, even against Japan, they would take their places unhesitatingly at the side of America. When the attack came, as we shall show, every Japanese organization and countless individuals indicated loyalty and determination to help in every conceivable way. That these pledges were disregarded and that the people who made them were spurned, is one of the great tragedies of our times. It was a vivid demonstration to the world that America, or at least those who were allowed to speak for her at a critical time, had no living faith in the democratic process and could think of nothing better to do than to fall back upon the Nazi method of dealing with people, on the basis of ancestry.

General DeWitt makes the blanket charge that all the Japanese organizations on the Pacific Coast were engaged in pro-Japanese activities. He offers no proof of this and he can offer no proof of it. The prefectural societies which he names simply brought together people who had come from the same districts of Japan for the purpose of socials and picnics. People who have come to California from Michigan, Iowa, and Ohio have formed clubs and meet for similar reasons without being threatened with internment. Most of the Japanese local "Associations" were simply groups of business men who combined the functions of the ordinary Chamber of Commerce with some social and benevolent interests.

Most of all was General DeWitt excited over the Butoku Kai.[108] This is a good example of the use of names and words to impress the uninformed, when an honest explanation of the history and background of those terms would rob them of their sting. Butoku Kai means "society for military virtue." The activities implied by the term are fencing (kendo), Jiujitsu (judo) and wresting (sumo). A Butoku Kai is therefore a club where these sports are practiced and taught. They are called by a term that means "military virtue" because they developed during feudal times and were the prerogative of the warrior class of that period. They have since become the pastime of all classes. Kendo, for example, had for years been a part of the athletic or physical educational curriculum of every Japanese high school, including Christian and missionary schools which have been unalterably opposed to militarism. It is no more related to militarism in modern Japan than the buttons on the sleeve of an American male are today connected with dueling. The name and the buttons have both outlived their original purpose. This is a very common social phenomenon; social scientists call it "culture lag."

After assuming the existence of subversive organizations among the people of Japanese ancestry on the West Coast, General DeWitt next insinuates that actual aid was given the enemy by members of this segment of the population. We use the word "insinuate" advisedly, for nothing but murky suspicion is advanced, and any actual charges are carefully avoided.

In justification of evacuation General DeWitt speaks of "the interception of unauthorized radio communica-

tions which had been identified as emanating from certain areas along the coast."[107] In the first place the truth of this assertion has been challenged by a high official of the Justice Department. The correspondent of the New York Times sent a special dispatch on February 14, 1942, which reads:

> "Walter Lippman, the columnist, was challenged today by Thomas C. Clark, enemy alien control coordinator for the Western Defense Command, to substantiate statements that the Pacific Coast was in imminent danger of attack and that communication was taking place along this shoreline between Japanese Navy units at sea and enemy agents on land."[108]

Even if we assume that General DeWitt was right and Mr. Clark was wrong and that what were heard were messages intended for the enemy, it is difficult to understand why General DeWitt should take it for granted that the messages were sent by West Coast residents of Japanese ancestry. After all, there were 100 other possible suspects for every person of Japanese ancestry who lived on the coast. It is a matter of record that the only radio operator on the West Coast caught sending wireless messages intended for the enemy was a 23 year old man of German descent named William A. Schuler. This man was arrested at his Palos Verdes, California home. On June 3, 1942, he was sentenced to a six year prison term by a Federal Judge.[109]

The next bit of circumstantial evidence which General DeWitt produces is that "for a period of several weeks

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[107] *Ibid.*, p. 4.

[108] *New York Times*, February 15, 1942.

[109] *Los Angeles Times*, June 4, 1942.

following December 7th, substantially every ship leaving a West Coast port was attacked by an enemy submarine. This seemed conclusively to point to the existence of hostile shore-to-ship (submarine) communication."[110]

This is remarkable reasoning indeed. It seems evident enough that any nation which begins an undeclared war by a surprise attack on a nation whose defenses are by no means complete will have sent submarines into its victim's waters and will be in a position to do considerable damage with those submarines until counter measures become effective. If these submarine attacks depended upon the cooperation of resident Japanese, why did they cease or greatly diminish three weeks after Pearl Harbor? The "Japanese" were still in their West Coast homes for a long time after that date. The first of the 108 exclusion orders did not go into effect until March 29, 1942. How can anyone seriously urge a submarine menace as a grounds for evacuation *after* the menace has been overcome? We suggest that enemy submarine attacks were brought under control when air patrols and other defenses were reinforced and that neither the attacks nor their elimination had anything whatever to do with the presence or absence of residents of Japanese ancestry on the coast. Since General DeWitt produces no evidence that communication with enemy submarines actually took place, it is a feat indeed for him to fix the ancestry of the person or persons who sent the hypothetical message!

If there is any doubt of the artificiality of the "military necessity" argument, this attempt to inflate the seriousness of the Japanese submarine campaign should remove it. Hanson W. Baldwin, after pointing out that in the winter

[110] *Final Report* of General DeWitt, p. 4.

and spring of 1942 "there seemed a likelihood that the German submarine might win the war" has this to say about the West Coast situation:

> "Fortunately, Japanese submarines have done comparatively little commerce raiding, and what they have done has been rather ineffective. There have been five or six 'scares' along the West Coast and for a time there was a small Japanese submarine concentration in the Gulf of Alaska, but none of it accomplished much.[111]

We now know why General DeWitt mentioned attacks on West Coast shipping but said nothing about actual losses or sinkings. Lately it has been revealed that 2,004,234 tons of cargo were sent to Hawaii from the West Coast in 1942 and 1943 *without a single ship loss.*[112] While this perfect record was being maintained in the Pacific a terrific toll was being taken in the Atlantic by enemy submarines. On December 7, 1942, the Associated Press announced that "in the year since the Japanese attacked Pearl Harbor 548 Allied and neutral merchant ships have been lost to Axis raiders in the Western Atlantic."[113] If the success of enemy submarines suggests that the residents of the adjoining seaboard are disloyal and that an evacuation is necessary it is obvious that the evacuation ordered by General DeWitt took place at the wrong end of the country.

But the "most striking illustrations" of the "successful communication of information to the enemy" General

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[111] Hanson W. Baldwin, "America at War," *Foreign Affairs*, January 1943, p. 200.

[112] *Los Angeles Daily News*, April 7, 1944.

[113] *Los Angeles Times*, December 7, 1942.

DeWitt finds in three enemy attacks on the West Coast.[114] He says, "On February 23, 1942, a hostile submarine shelled Goleta, near Santa Barbara, California, in an attempt to destroy vital oil installations there. On the preceding day the shore battery in position at this point had been withdrawn to be replaced by another." All accounts of this episode indicate that the submarine surfaced, fired a few salvos which caused no damage, hastily submerged and fled. This is hardly what might be expected from a commander who knew his ship was safe from American fire.

Next, General DeWitt informs us that "In the vicinity of Brookings (Mt. Emily), Oregon, an enemy submarine-based plane dropped incendiary bombs in an effort to start forest fires. At that time it was the only section of the Pacific Coast which could have been approached by enemy aircraft without interception by aircraft warning devices."[115] We call attention to the fact that General DeWitt, although he was quick to give the date of the Goleta incident, mentions no date for the Mt. Emily episode. The very ugly reason for this concealment of material evidence is that the Mt. Emily attack occurred on September 9, 1942.[116] By June 5, 1942 every person of Japanese ancestry had been moved from his home and was in detention behind barbed wire and under armed guard in the crowded Assembly Centers hastily prepared for them.[117] By September 9 many of these people had

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[114] *Final Report of General DeWitt*, pp. 18-19.

[115] *Ibid.*, p. 18.

[116] *Los Angeles Daily News*, September 15, 1942.

[117] *Release No. 1042 Wartime Civil Control Administration*, Western Defense Command and Fourth Army, San Francisco, California. Issued October 24, 1942, for release in the afternoon papers of Wednesday, October

been removed to the inland Relocation Centers. How persons who had been incarcerated since June 5 or before, knew of the existing imperfections of the aircraft warning system in a remote part of Oregon and transmitted this information to an enemy submarine on or about September 9, General DeWitt does not explain. It is not too much to say that the use in this context, without mention of date, of an event in which persons of Japanese ancestry from the mainland could not possibly be implicated, is an abuse of public trust. We draw a different and more logical conclusion from the Mt. Emily attack. If the enemy was aided in his attack upon the West Coast on September 9, 1942 it proves that any internal danger to the region came not from the American Japanese, but from people of other ancestries who had been left undisturbed.

Finally General DeWitt tells us that at Astoria, Oregon, "A hostile submarine surfaced and shelled shore batteries there from the only position at which a surfaced submarine could have approached the coast line close enough to shell a part of its coast defenses without being within range of the coastal batteries."[118] Again the date of this event is omitted, perhaps because it occurred June 20, 1942, fifteen days after the last person of Japanese ancestry who had lived on the West Coast was securely in detention.[119] All that needs be said is that if enemy submarines were receiving directions from the mainland on June 20 and September 9, 1942, General DeWitt himself, by his exclusion orders, has provided us with the proof that it was not persons of Japanese ancestry who were involved.

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[118] *Final Report* of General DeWitt, p. 18.

The claim that General DeWitt excluded all persons of Japanese ancestry because he decided that individuals among this group were helping the enemy, is still more astonishing in view of the identity of those who actually have been convicted of being agents of Japan. No people in the history of this nation have been investigated and scrutinized as thoroughly as have the Japanese before and since the beginning of the present conflict. Out of all of this has come *one* conviction of a person of Japanese ancestry for having unauthorized dealing with the Japanese government. In June, 1942, Tsutomu Obana was sentenced to a light term of from two to six months on a charge of violating the Foreign Agent's Registration Act. But there were mitigating circumstances, for in pronouncing sentence the court stated: "It is to be said for Obana that he did not play crookedly smart with his government. He was a dupe for Japanese government officials and sought to obtain full registration under the Foreign Agent's act but had been forbidden to do so."[120]

Against this we have a much different record of the pro-Japanese activities of persons of other nationality and ancestral backgrounds. On June 19, 1942, Dr. Otto Willumeit, chief of the Chicago division of the German-American bund, pleaded guilty to plotting to collect and transmit United States defense secrets to Germany and *Japan*. Dr. Willumeit told of a trip along the West Coast in October, 1941, in which he and other German leaders inspected and noted coastal defenses and military installations.[121] Willumeit, who testified for the Government

[120] *Ibid.*, June 11, 1942

[121] *Los Angeles Daily News*, June 20, 1942; *New York Times*, August 4

against the espionage ring of which he was a part, was sentenced to five years in prison on August 21, 1942.[122]

Gerhard Wilhelm Kunze, leader of the German-American bund, was sentenced to fifteen years in prison on the same day for obtaining military information for Germany and *Japan*. A witness described Kunze's West Coast activities of late 1941 in these words:

> "All along the road from Seattle to San Francisco Kunze pointed out weaknesses of American coast defense, good spots for possible landing parties and the distances between naval units. After we drove around the San Francisco docks Kunze took me out to the Sacramento River Dam and told me that a break in that dam would inundate 100 square miles of the country. While at San Francisco he held conversations that I could hear with several employees of aircraft factories."[123]

Testimony was also introduced to show that Kunze and the members of his "touring party" charted "harbor installations, naval dispositions, shipping points that were vulnerable and places of possible invasion." Kunze was said to have a "kaleidoscopic memory of the entire geographical, topographical, and mineralogical resources of the West Coast, its history, and its national and racial characteristics." Members of the party found that Kunze knew the West Coast so well that "he didn't even need a road map to get around during the entire trip." Somewhere along the West Coast the travelers stopped "to confer with a group of bund sympathizers." At San Diego "Kunze pointed out the fleet in the harbor, its

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[122] *Los Angeles Daily News*, August 22, 1942.

strength, the number of battleships stationed there."[124] After his tour Kunze disappeared into Mexico. The man who smuggled him into Mexico, Dr. Wolfgang Ebell, has since been convicted of operating an underground railroad for spies escaping to the country to the South.[125]

Without going into all the dreary details it may be stated that another German, Rev. Kurt E. B. Molzahn, was also convicted of obtaining secret military information along the West Coast for Japan.[126] This amiable clergyman was sentenced to ten years in prison. Evidently the expedition of the Germanic agents of Japan along the West Coast yielded results. A German alien arrested August 1, 1942, in New York City, by the Federal Bureau of Investigation had in his possession a photograph, taken in San Diego, California, of an American submarine tender, with ten submarines alongside.[127]

If General DeWitt believed that the Japanese military had too much information about the West Coast, he need not inevitably have suspected the resident farmer, student or small businessman of Japanese ancestry. He might conceivably have thought of Captain Fritz Wiedemann, former German Consul-General in San Francisco, acknowledged to have been the center of the German espionage ring of the West Coast from 1939 to July, 1941. When Captain Wiedemann was expelled from this country to Europe, he stayed there only briefly. In September he was in Argentina. *In October, 1941, he was in Tokyo.*[128]

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[124] *Los Angeles Daily News*, August 4, 1942.

[125] *Ibid.*, August 22, 1942.

[126] *Ibid.*, August 26, 1942.

[127] *New York Times*, August 2, 1942.

Nor did the "interest" of those of German background in Pacific matters stop with the West Coast. It now appears that the contracts for the building of the army aircraft warning system in Hawaii were given to a German alien, Hans Wilhelm Rohl, who was admittedly and loudly pro-Nazi. The work which should have been completed six months before Pearl Harbor, was only 37 per cent finished when the enemy struck. Herr Rohl, who had been a resident of the United States since 1913, made frantic attempts to become naturalized three months before the start of the war. A suit charging fraud has been filed in the name of the United States Government for $1,976,000 against the firm with which Rohl is connected. As a result of a recent Congressional investigation still more serious charges may be preferred.[129]

Moreover it has been revealed by the Office of War Information that the only person who signaled or tried to signal the Japanese attackers from Hawaii was a German spy named Bernard Julius Otto Kuehn. The statement of the Office of War Information relates that Kuehn was arrested on December 6, 1941, was found guilty of espionage on February 21, 1942, and was sentenced to be shot. On October 26, 1942, his sentence was commuted to fifty years at hard labor. Kuehn worked out and furnished the Japanese with an elaborate system of signals whereby he could transmit to the Japanese fleet the number and types of American ships at Pearl Harbor. In 1940 he had a dormer window constructed in his carefully placed house from which the signals might be flashed. Whether he actually did signal the Japanese before or

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[129] For details of the *Kohl* case see *Los Angeles Times*, April 25, 1944; *Honolulu Star Bulletin*, August 1, 2, 4, 5, 9, 1944.

during the attack has not yet been revealed by the War and Navy Departments.[130]

There is no mystery about the interest of Germany and Italy in a successful attack by the Japanese military on the United States. Japan entered the war, undoubtedly partly at the behest of her Axis partners, when American aid to Great Britain was becoming an important factor in the European theater. No doubt Germany hoped that the United States would be fully occupied by a Pacific attack and would have to abandon England to a fate prepared for her by the Nazis. It is a crude absurdity, which we do not believe for a moment General DeWitt really shares, to think that Germany and Italy did not have as much interest in stopping West Coast war production as did Japan. Over sixty per cent of the airplanes, to mention but one item, which were being used in the European theater against Germany and Italy, and which were hunting down German submarines in the Atlantic, were being manufactured in West Coast plants. The Consolidated Liberator, so consistently used in the Mediterranean, the Lockheed Hudson, the Douglas Boston which guarded London, the Vultee Vengeance which the RAF used so successfully as a divebomber,—these are only a few of the names that come to mind in this connection.[131] Mr. Kunze knew this. So did Mr. Kuehn and the others whom we have given dishonorable mention. Perhaps Nicholino Buonopane, 23-year-old electrician at North American Aircraft Corporation in Los Angeles, did also, for he confessed to the Federal Bureau of Investigation Agents on October 9, 1942, that he had slashed wires on the interphone system, the heating controls and the wires leading

[130] *Chicago Tribune*, June 15, 1943.

[131] *Los Angeles Daily News*, March 1, 1943.

to the fuel pressure gauges of B-25 bombers.[132] If General DeWitt did not know that this is a global war in which enemies were equally interested in both sides of the continent, the Germans and Italians did.

We ask this Court to take judicial notice of the degree to which German and Italian success depended on stopping or curtailing West Coast war production, and of the obvious interest of Germany and Italy in victories for Japan in the Pacific. We ask that judicial notice be taken of the number of instances in which the German and Italian concern was translated into espionage and subversive activity on the West Coast and in Hawaii. We emphasize this particularly because in the *Hirabayashi* case this factor was totally overlooked by this Court. In its opinion this Court said:

> "The fact alone that attack on our shores was threatened by Japan rather than another enemy power set these citizens apart from others who have no particular associations with Japan."[133]

And, a few lines further on, this Court states:

> ". . . in time of war residents having ethnic affiliations with an invading enemy may be a greater source of danger than those of a different ancestry."[134]

It seems to us, on the contrary, that in the present conflict just the opposite has proved to be the case. We do not allude merely to the evidence we have cited to show to what degree Japan was aided by non-Japanese elements in this country. We refer to the manner in which the

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[132] *Ibid.*, October 10, 1942.

[133] *Hirabayashi v. United States*, p. 101.

[134] *Idem.*

issues of this war and the alignments these issues have brought, have transcended and cross-cut ethnic lines. Japanese culture (its historical roots, food habits, religion, social organization, family structure, writing, etc.) is infinitely closer to Chinese culture than to American ways. But China has been fighting Japan much longer than we have. Russia and the United States, though their political and economic structures are far different, are allies today. Quisling is not a German. Yet he found no difficulty in temporizing with his "ethnic affiliations" and becoming a Nazi puppet. The men of Vichy were not Germans; they supposedly represented the culture of France. But they were able to overlook their "ethnic affiliations" and to collaborate with the enemy, some of them even before the German invasion.

We ask this Court, therefore, before it gives currency to vague hints concerning alleged "ethnic affiliations" between Americans of Japanese ancestry and the Japanese of Japan, to consider the substantial body of evidence which indicates that whatever aid and comfort Japan has obtained in this country has not come from persons of Japanese ancestry who have recalled an ethnic affiliation, but from white Americans and non-Japanese who have forgotten one. To cite only a few examples: On June 5, 1942, Frederick V. Williams and David W. Ryder of San Francisco were sentenced to four years in prison for acting as Japanese agents without complying with the Foreign Agents Registration Law.[135] On September 10, 1942, Igor Stepanoff, who was convicted of violating the Selective Training and Service Act, confessed in a San Francisco Federal Court that he had worked as an agent

[135] New York Times, June 6, 1942.

for the Japanese government.[136] Arthur Clifford Read was convicted of being an undeclared Japanese agent on January 28, 1944.[137] On August 14, 1944, Mrs. Velvalee Dickinson, a white woman, born, reared and educated in California, was sentenced to ten years in prison and fined $10,000 for her activities as a Japanese agent.[138] The Government charged that in coded letters, by way of Argentina, she sent information concerning naval activities along the West Coast before and after Pearl Harbor. In sentencing her Federal Judge Shackelford Miller, Jr., said, "You, as a natural-born citizen, having a university education and selling out to the Japanese, were certainly engaged in espionage."

Others, most of them native-born white Americans, who have been arrested on charges of espionage for Japan or for being unregistered agents of Japan are: John Farnsworth, Harry Thomas Thompson, Frederick Heizer Wright, John C. LeClair, Joseph Hilton Smyth, Walker Grey Matheson, Ralph Townsend and Mimo De Guzman.[139] In the light of these facts, we cannot concede that reasonable and realistic counter-measures against internal danger can or should be taken on the basis of what has been called "ethnic affiliations." Everything that we have learned about the clash of ideologies since the beginning of this struggle demonstrate that one cannot identify the Axis sympathizer by the color of his hair, the slant of his eyes, ~~or by his ancestry.~~ And, it is hardly necessary

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[136] *San Francisco Chronicle, Los Angeles Times, Los Angeles Daily News*, September 11, 1942.

[137] *Christian Science Monitor*, January 31, 1944.

[138] *New York Times*, July 29, 1944, and August 15, 1944; *San Francisco Chronicle*, August 15, 1944.

[139] Carey McWilliams, *What About Our Japanese-Americans*, Public Affairs Pamphlets, No. 91, 1944, p. 8.

to add, the revelation of the true identity of those who have worked for Japan in this country is a stinging refutation of General DeWitt gratuitous assumption that "Japanese" were necessarily responsible for any activities along the Coast which he thought were designed to help the foe. Since this is the principal reason advanced by General DeWitt for evacuation, the "necessity" which he saw becomes more strained and dubious as information accumulates.

8. The Many Effective Measures Applied by the Department of Justice Before Removal, Made Evacuation Unnecessary.

Throughout General DeWitt's explanation of why he ordered evacuation there runs an obvious attempt to give the impression that the conditions and activities to which he objected and which he uses to rationalize evacuation existed *up to and at* the time removal took place. Thus he tells us that evacuation was necessary because Japanese were living near defense installations.[140] But in his chapter on the need for Evacuation he does not explain how many zones and vital areas, *at the request of the War Department*, had long prior to the evacuation been declared prohibited to enemy aliens by the Attorney-General. General DeWitt makes much of the presence on the Coast of persons who had made contributions to Japanese causes during the Sino-Japanese War.[141] He does not tell us that the Federal Bureau of Investigation had full information relating to these gifts and to these people and that anyone who had ever sent a substantial gift of any kind

[140] *Final Report* of General DeWitt, pp. vii, 9-10.

[141] *Ibid.*, p. 12.

to Japan was interned long before evacuation. Much is said about organizations which General DeWitt claimed to see as focal points of pro-Japanese sentiment.[142] The fact is that the officers and leaders of every important Japanese organization (including some fairly innocuous ones) were interned or at the least thoroughly investigated at the very beginning of the conflict.

In short, General DeWitt justifies an action that he took at the end of March, 1942, on the basis of conditions which existed more than three months before and which had been corrected or markedly altered by the time he issued his orders. The question to be asked is not whether evacuation *would* have been reasonable if no wartime controls had been instituted, but whether it was necessary and reasonable in the face of the long series of safeguards to West Coast and national security which were established by the civil authorities *before* evacuation. We propose to prove that carefully planned, effective, and comprehensive measures for coping with sabotage, espionage and subversive activity were applied promptly on the West Coast at the outbreak of war (indeed, several of them predate Pearl Harbor) and that their nature and smooth operation made unnecessary and unreasonable the expensive and unconstitutional abridgment of citizenship rights that General DeWitt nevertheless ordered.

On June 28, 1940, President Roosevelt signed the Alien Registration Act.[143] The bill, occasioned by uneasiness due to approaching war clouds, called for detailed information concerning the characteristics of our alien popu-

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[142] *Ibid.*, pp. 11-13.

[143] Alan Cranston, "The Registration of Aliens," *Common Ground*, Autumn, 1940, pp. 82-85.

lation. Since Japanese immigrants are not permitted to naturalize, it provided the Department of Justice with valuable information relating to this entire group. Failure to register was punishable by a fine of $1,000.00 and six month's imprisonment. The same penalty plus possible deportation was imposed for making false statements.[144] The registration began August 27, 1940, and continued for four months. Each alien was asked how and when he entered the United States, the length of time he expected to stay, and whether he had had military or naval service or any criminal record. He was asked to list all organizations in which he held membership and to indicate it if they were related in any way to a foreign government.[145]

Tension between the United States and Japan mounted rapidly in the summer and fall of 1941. On October 21, 1941, twelve agents of the Federal Bureau of Investigation visited the offices of Japanese organizations and separately interrogated the presidents, executive secretaries and members of the executive committees of each.[146] The books and membership lists of the Japanese Chamber of Commerce and Central Japanese Association were seized and subsequently "almost a truckful" of records and papers were accumulated from various sources. Among other things it was discovered *that contributions to Japanese causes from Japanese in California had ceased by May, 1941*, when the President declared an unlimited emergency.[147]

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[144] *Ibid*., p. 82.

[145] *Ibid*., p. 84.

[146] *Los Angeles Times*, November 13, 1941.

Between October 21 and November 12, 1941, Federal Agents made repeated calls upon the headquarters of Japanese organizations and frequently questioned Japanese leaders. On November 13, 1941, Attorney-General Biddle revealed plans for the internment of "dangerous Japanese aliens" in the event of "friction with Japan." Those Japanese aliens loyal to the United States were promised fair treatment by the Attorney-General if they did not break any law.[148]

On November 28, 1941, W. A. Carmichael, district director of Los Angeles for immigration and naturalization, announced new immigration regulations which were to go into effect the following Monday. They were designed to keep an even closer check on aliens and particularly on alien fishermen. Under these regulations any alien leaving the United States was compelled to have in his possession a valid passport, an alien registration receipt and, if of draft age, a clearance certificate from his draft board.[149]

In a matter of hours after the attack on Pearl Harbor the Federal government had apprehended nearly 1,300 Japanese nationals. In announcing this speedy and decisive action Mr. Biddle declared:

> "The arrests were made in accordance with a plan of action made months ago after investigation of the persons concerned. . . . Every one of those taken into custody had been under observation for more than a year. . . ."[150]

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[148] *China Weekly Review*, November 22, 1941, p. 332; *Los Angeles Times*, November 13, 1941.

[149] *Los Angeles Times*, November 28, 1941.

[150] *New York Times*, December 11, 1941.

It is apparent that Mr. Biddle had put in operation a plan intended to provide maximum protection for the Pacific Coast and that he had good reason to believe that the Department of Justice had taken into custody the great majority of the persons whom he considered any threat whatever to internal security.

Next, Japanese, German and Italian aliens were notified to surrender, by January 5, 1942, all radio transmitters, short-wave radio sets, cameras, firearms, ammunition or signaling devices.[151]

Also, by Presidential proclamation, aliens were forbidden to change place of abode or occupation, to travel by plane or to use public conveyances. Japanese aliens were also warned against being found on any highway, waterway, railway, place or thing not open and accessible to the public generally.[152]

A full inquiry into the finances and property interests of every Japanese national was made also. The aliens who had been in continental United States at all times on and since June 17, 1940 (the assets of the others were frozen), were required to fill in Form TFR-300, listing all possessions totaling $1,000 or more, and to file it with the appropriate Federal Reserve Bank by January 15, 1942.[153]

On January 14, 1942, by Presidential proclamation, a new registration of all enemy aliens fourteen years of age and older was ordered. Of this move Attorney-General Biddle said:

> "We deem it essential . . . to obtain supplementary information about all German, Italian and

[151] *A Week of the War*, official publication of the Office of Facts and Figures, January 1, 1942; *Pacific Citizen*, San Francisco, January, 1942.

[152] *Pacific Citizen*, January, 1942.

[153] *Idem.*

Japanese non-citizens and provide them with identification certificates bearing their photographs."

The procedure was to have the alien fill out a detailed questionnaire or application and to present him with the Certificate only after a check had been made of the application and the applicant. Applications were accepted only from those who could show an alien registration receipt card and the Certificates were delivered through the mail to prevent any deception concerning addresses. An alien was required to carry the Certificate with its photograph, fingerprint and signature with him at all times, under penalty of internment.[154]

The idea that the Japanese community went on its way blissfully and undisturbed, with time, money, personnel and strength for subversive activity until General DeWitt decided upon evacuation seems absurd indeed when one of the best informed authorities on the subject describes what really occurred:

> "Some aliens, suspected of subversive activity, had long been under surveillance by agents of the Bureau, but most of those detained were taken up because their positions in business, in Japanese associations, or in Japanese communities, made them possible organizers and leaders of fifth-column activity. They were officers of powerful Japanese concerns like Nippon Yusen Kaisha, Mitsui, Mitsubishi, Yokohama Specie Bank, and Sumitomo Bank, or men who had held important positions in Japan, or Japanese newspaper correspondents, or top men in their communities, or men whose organization activities would not wash clean under Bureau scrutiny. . . ."

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154 *A Week of the War*, official publication of the Office of Facts and Figures, January 16, 1942; *Pacific Citizen*, Vol. XIV, No. 161, January 1942.

"The FBI's roundup of enemy aliens was but one phase of the process of tightening government control of the property and persons of Japanese. The machinery of the Treasury Department was put in motion to stop all business and financial transactions involving Japan. The Treasury Department's General License No. 68 was revoked. Under this, Japanese nationals continuously residing in the United States on or since June 17, 1940, had carried on business after the general freezing order of June 14, 1941. On December 7 Secretary Henry Morgenthau, Jr., issued Public Circular No. 8 under Executive Order No. 8389, which read: 'All general licenses, specific licenses, and authorizations of whatsoever character are hereby revoked in so far as they authorize, directly or indirectly, any transaction by, on behalf of, or for the benefit of, Japan or any national thereof.' Simultaneously, the FBI forbade travel by alien Japanese and Japanese-Americans alike.

"The impact of these orders upon the life of the Japanese community was severe. Those away from home for the weekend were unable to return. Employees could not draw their wages. Households were caught without funds to purchase food, and grocers were forbidden to provide food on credit. Truck gardeners and florists could not sell their produce. Insurance companies cancelled policies on automobiles owned by alien Japanese. . . . .

". . . . After the first roundup of enemy aliens by the FBI, Japanese-Americans were permitted to travel in their own automobiles and to use public carriers upon showing a birth certificate. Alien Japanese continued to be barred the use of public carriers. . . . "[155]

[155] John H. Oakie, "Japanese in the United States," *Far Eastern Survey*, January 26, 1942, p. 25; *Interpreter Releases*, Common Council for American Unity, New York City, Vol. XIX, No. 14, Series C: No. 8

Now occurred even more drastic restrictions. On January 29, 1942 came a terse announcement from Washington in which the Attorney-General revealed that, *on the recommendation of the War Department*, enemy aliens would be ousted from vital areas in San Francisco and Los Angeles. Mr. Biddle explained that "several thousand aliens, mostly Japanese," would be affected by this first order. Fourteen areas were included in this first ban.[156] Soon twenty-seven more such prohibited zones were announced. A day later sixty-seven other areas were declared prohibited zones and Lawrence E. Davies wrote in a special dispatch to the New York Times:

> "Thousands of enemy aliens living in areas adjacent to shipyards, docks, power plants and defense factories prepared today to find new homes as Attorney-General Biddle added sixty-nine more districts in California to the earlier list of West Coast sections barred to Japanese, Italian and German nationals. . . . The chief aim of the Department of Justice and the War Department appeared to be the protection of vital industrial and waterfront areas from potential fifth columnists."[157]

Hard on the heels of this came a new order declaring seven areas in the State of Washington and twenty-four in Oregon likewise prohibited to enemy aliens. The Grand Coulee and Bonneville dams were sites included in these evacuated zones.[158]

In twelve other California areas aliens were not evicted but curfew regulations were imposed. Then came a sweep

[156] *New York Times*, January 30, 1942.

[157] *A Week of the War*, January 30, 1942; *New York Times* (special

ing curfew order. Effective February 24, 1942 all enemy aliens in an area beginning 50 miles north of Los Angeles and running north for 500 miles to the Oregon border, were ordered, under penalty of internment, to be in their residences from 9 P. M. to 6 A. M. at all other times, to be at their homes or their places of employment, and in any case to remain within a five miles radius of their residences. The area involved ran inland from 30 to 150 miles along the Coast.[159]

Nor were the Japanese spared mass arrests of the most general kind. On February 2, 1942, fifty-five Federal Bureau of Investigation Agents, 78 detectives, 30 deputy sheriffs, 12 uniformed policemen, and a number of immigration officers descended upon Terminal Island. Under the authority of a blanket warrant they took into custody all the adult alien males, over five hundred in number, who had fished in West Coast waters. Their vocation was the only charge against most of these men and that was hardly grounds enough for holding them in internment. Accordingly most of them have since been released.[161]

The Attorney-General continued to issue evacuation and restriction orders. These were carefully planned to afford protection to defense plants and vital installations of all kinds. By an order of February 2, 1942, for instance, the area including the huge Santa Monica Douglas air plane plant was closed to those of enemy nationality.[162] On this same day many coast cities or large sections of them were

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[159] *Idem*

[160] *California Daily News (Kashu Mainichi)*, February 2, 1942; Gracia Booth, "You Can't Black Out the Stars," *Christian Century*, March 25, 1942, p. 384.

declared prohibited or restricted zones. Over 1,500 Japanese aliens were affected by the orders of February 2.[163] By February 9, eighteen Arizona zones had been added to those from which aliens were banned.[164]

On February 11, 1942, the measures which had been taken to ensure "West Coast Control" were reviewed in a joint release by the Secretary of War and the Attorney-General. Some of the significant passages of this important document read:

> "The Army has surveyed and recommended 86 prohibited areas in California. Further areas have been studied and are now being recommended in California, Washington, Oregon and other western states. . . . The areas include regions bordering on military installations, plants, plants engaged in war production, public works such as aqueducts, bridges, pipelines and wharfs, and coastal zones of strategic importance.
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> "The Secretary of War and Lieutenant General DeWitt, Commander of the Western Defense Command, have in addition recommended to the Attorney-General that 12 areas along the coast be restricted so that, in order to remain within the areas, all alien enemies must obtain permits which will be issued to them under regulations of the Department of Justice expressly limiting their persons and conduct therein. . . . The Secretary of War states that the Attorney-General has taken all steps recommended by the Secretary of War for the control of alien enemies on the West Coast to date.[165]

[163] *Ibid.*, February 5, 1942

As this statement indicates, the Department of Justice co-operated effectively and continuously with the War Department until General DeWitt demanded an unnecessary degree of personal power and promptly abused it. For instance, as a result of conferences between representatives of the Department of Justice and the War Department, a working agreement was outlined on January 6, 1942 in which the Attorney-General made greater concessions to the Army in respect to apprehension, search and seizure and multiple searches than has ever before been permitted in the history of this country.

The memorandum which embodies this agreement states that the Attorney-General will entertain Army recommendations concerning restricted areas.[166] By its terms FBI agents are instructed to entertain Army requests for apprehensions submitted in writing, or, if time does not permit, *to honor oral requests* to be confirmed later in writing.[167] An enemy alien found in violation of any proclamation is declared to be subject to arrest by FBI agents or by the Army *without warrant*. An enemy alien in possession of contraband is declared to be subject to arrest *without warrant*.[168] United States attorneys are instructed to furnish warrants authorizing the search of the premises of an enemy alien *merely on application*.[169] No grounds beyond the statement that the premises are those of an enemy alien is necessary. When time does not permit the procuring of a warrant it is agreed that the premises *may be searched without a warrant*.[170]

[166] *Final Report* of General DeWitt, pp. 4-6.
[167] *Ibid.*, p. 5.
[168] *Idem.*

Where the premises are those occupied by a citizen the agreement states that they can be searched only if a search warrant is obtained, but a provision is made whereby such a premise may be kept under surveillance while the warrant is being obtained.[171] A procedure for "spot raids," (the search of all alien enemy premises in a given area at once) is worked out.[172]

Moreover, all these provisions were put into execution promptly, and prohibitions and restrictions were strictly enforced. For instance, the February 15, 1942, deadline for aliens to be out of twelve Los Angeles zones was scarcely past before FBI agents were in the areas to make certain that no violators of the proclamation remained.[173] At the West Coast Tolan Congressional Committee Hearings it was revealed that Federal agents had combed airport districts for possible violators of exclusion orders too.[174]

That long-term planning, even to the creation of a special service, went into the measures and precautions which preceded General DeWitt's senseless break with constitutional procedure, were revealed by the Assistant to the Attorney-General in the summer of 1942 when he wrote

> "The Department of Justice began planning strong preventive programs ready for immediate action on the inevitable day of reckoning. As the interminable debate over America's foreign policy captured the headlines, planning quietly continued. At least a year

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[171] *Idem*

[172] *Idem*

[173] *California Daily News*, February 16, 1942

[174] *Hearings before the Select Committee Investigating National Defense Migration* (Tolan Committee), Part 29, San Francisco, Testimony of Tom

before Pearl Harbor the Department of Justice began to list possible saboteurs and enemy agents among the German, Italian, and Japanese alien populations. These lists were carefully compiled by Federal Bureau of Investigation agents and submitted for thorough review to a comparatively unknown division, at that time called the Special Defense Unit, whose chief function was the planning of vigorous counter-measures in the event of war."[175]

Accordingly it is exceedingly difficult to reconcile General DeWitt's "military necessity," which nothing less than total evacuation could satisfy, with the confidence of the Director of the Federal Bureau of Investigation that his unit had the situation under perfect control. On July 18, 1942, Director Hoover said:

> "The attack on Pearl Harbor found the FBI completely mobilized on a war-time basis and ready for any emergency. In the first twenty-four hours after the attack more than 1,000 of the most dangerous enemy aliens were rounded up."[176]

Director Hoover of the Federal Bureau of Investigation is a realistic man. His patriotism and good faith, too, must be assumed by this Court. If the task of preventing sabotage and subversive activity along the coast without the intervention of the Army had been too great for him, we must assume that he would have so stated. He has never done so. Attorney General Biddle, too, can be assumed to be more concerned for the safety and victory of this country than over his prerogatives. Yet all state-

[175] James Rowe, Jr., "Much Enemy Program So Far," *Common Ground*, Summer, 1942, p. 20.

[176] New York Times, July 19, 1942. (United Press release from Wash-

ments and reports that these men have issued declare that the precautions and counter-measures they applied were sufficient and successful.

Moreover, the record bears them out. Even *if there had been* sabotage attempts and evidences of fifth column activity among resident Japanese, it is not at all certain that evacuation would have been justified. We would need then to ask whether the Intelligence services could not have crushed individual subversive activity and espionage rings among West Coast Japanese as they did among Germans, Italians and native-born white Americans in various parts of the country without dislocation of populations and mass evacuations.

But the transfer of authority to the Army and the extension to citizens of controls which have hitherto been reserved for enemy aliens, occurred *in the total absence of any deterioration of the effectiveness of Department of Justice control.* There was no increase in sabotage attributable to persons of Japanese ancestry because no sabotage has ever been traced to a member of this group. There was no increase in fifth column activity because no such activity has been attributed to this group. On December 10, 1941, Attorney-General Biddle asserted, "There has been absolutely no evidence of fifth column or sabotage activities."[177] In the joint release issued February 11, 1942, by the Secretary of War and the Attorney-General on West Coast Control we are told, "To date there has been no substantial evidence of sabotage by any aliens."[178] Yet three days later General DeWitt was to request un-

[177] *Ibid.* December 11, 1941.

[178] *Los Angeles Japanese Daily News*, February 13, 1942.

limited authority to remove citizens as well as aliens from the zone under his command!

The enormities of evacuation would be most difficult to justify in any case. The question would always be whether more vigorous Department of Justice action within the constitutional framework would not have sufficed, or whether an alternative, such as the establishment of hearing boards, would not have been preferable. But in the absence of any evidence of sabotage or fifth column activity, in view of the amazing list of workable and effective measures and controls which were in existence before removal (117 prohibited zones and many restricted zones had been named before removal), evacuation is simply inexplicable, except on grounds of prejudice and unreason. There was never any convincing grounds for evacuation. But at the time it was actually undertaken, as we have demonstrated, there was less necessity or reason for it than at any time since the war began.

9. The Argument That Early Japanese Military Successes and Lack of Time Necessitated Removal and Prevented Hearings Answered.

In his explanation of evacuation General DeWitt constantly attempts to give the impression that he was working against the pressures of time. In one place he says of the people of Japanese ancestry, "Their loyalties were unknown and time was of the essence."[179] The General's thought seems to be that a man may be forgiven for violating the United States Constitution, if only he can prove that he was in a hurry. He provides us with a breathless account of early Japanese successes which would do credit

to the Tokyo radio. He recounts how Pearl Harbor was attacked December 7, how Manila fell January 2, how we suffered a naval reverse in the Java Sea on February 27, how Bataan was occupied on the 9th of April, how Corregidor surrendered May 6, and how Attu and Kiska were occupied on June 7.[180] There his recital stops and there, too, stop the Japanese victories. This Court has evidently been unduly impressed by this type of information and reasoning because in the Opinion of the Court in the Hirabayashi decision a similar account of the first phases of the war is offered to explain why a "reasonably prudent man" might, in view of the circumstances, impose a curfew upon citizens.[181]

The flaw in General DeWitt's reasoning, as far as evacuation is concerned, is that this method of safeguarding our western shore was not suggested by him or by others *when the danger was greatest.* The time when there was real cause for alarm on the West Coast was immediately after December 7, when it was not clear whether the attack on Pearl Harbor was a prelude to an invasion attempt on the Islands and a swift move across the Pacific to attack the Coast or whether the Japanese strategy was to cripple our fleet at Hawaii so that it could not interfere with Japanese movements in the South Pacific. Long before evacuation was seriously discussed we knew that Japan's major concern was the occupation of the territories more immediately within her grasp, and that she was not contemplating an excursion in force to American shores.

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[180] *Ibid.*, p. 18.

In this manner December, January, February and most of March passed without any attempt being made to set up hearing boards or to take any steps to avoid the mass evacuation of citizens. General DeWitt's Civilian Exclusion Order No. 1 was not issued until March 24, 1942, and did not become effective until March 30.[182] By that time he had discovered that "time was of the essence" and that a "hasty" evacuation was imperative.

It must not be supposed that because evacuation was *begun* at the end of March, that it was completed then. Thousands of persons of Japanese ancestry remained in their homes, on their farms and in their old locations for months after the removal started. The territory from which the people were to be excluded was divided into 108 zones and the inhabitants of Japanese ancestry were moved out of each of them in turn. The last Civilian Exclusion Order, No. 108, is dated July 22, 1942, and those whom it affected were given until noon of August 11, to comply with it.[183] It therefore appears that persons of Japanese ancestry were present in the "threatened" zone for a full eight months after the declaration of war, living and working under approximately the same regulations that the Attorney-General had prescribed before control passed to General DeWitt. The notion that evacuation and all its excesses must be excused because it was the product of haste born of military necessity is consequently seen to be a sorry fiction.

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[182]Civilian Exclusion Order No. 1. Issued from the Presidio of San Francisco, California, March 24, 1942, by Lieutenant General J. L. DeWitt. It includes all persons of Japanese ancestry from Bainbridge Island in the State of Washington.

[183]Civilian Exclusion Order No. 108. Issued from the Presidio of San Francisco, California, July 22, 1942, by Lieutenant General J. L. DeWitt.

Moreover, during the long period during which General DeWitt's exclusion orders were being promulgated and before all of them had even been written, the military picture brightened considerably for this country in the Pacific War. On June 6, 1942, the Japanese navy sustained a blow from which it never recovered. On June 18, Secretary of War Stimson released a statement through the Associated Press which should have meant a reconsideration and revision of the policy of evacuation if it was indeed based on military considerations relating to possible attacks on the West Coast. The first paragraph of the news release, from which its tenor may be inferred, describes the changed situation thus:

> "The danger of an immediate Japanese attack on the West Coast of the United States has greatly diminished, Secretary of War Stimson said today, because recent American successes scattered the enemy fleet 'all over the Pacific' and sent it 'hustling away as fast as it could in the opposite direction.' He was speaking primarily of the struggle off Midway, in which American air power wreaked such havoc on the Japanese navy."[184]

In an effort to leave the impression that danger to the coast necessitated the continuation of the evacuation policy and left no time for hearings or alternatives, General DeWitt has told us:

> ". . . with the occupation by the Japanese on June 7th of Attu and Kiska Islands, United States territory in continental Northern America had been invaded."[185]

[184] *Los Angeles Times*, June 19, 1942.

[185] *Final Report* of General DeWitt, p. 18.

Fortunately for our perspective and purposes an even higher ranking officer than General DeWitt has had something to say about this event. On August 12, 1944, at the Bremerton, Washington Puget Sound Navy Yard, the Commander-in-Chief of the American Army and Navy, the man who has participated to such an extensive degree in the overall planning of the campaigns against the Axis, uttered these words in the course of an historic address:

> "You here can well realize the commotion which followed the Japanese occupation of Attu and Kiska and you may have thought that the chiefs of staff in Washington were not paying enough attention to the threat against Alaska and the Coast. We realized, of course, that such a Japanese threat could become serious if it was unopposed, *but we know also that Japan did not have the naval and air power to carry this into effect without greater resources and a longer time to plan* (emphasis ours).
>
> "Preparations to throw the Japanese from their toe-holds had been laid even before the Japanese got there, and the rest of the story you know."[186]

We may reasonably ask why the episode becomes so enlarged and fearsome when General DeWitt tells it. The answer is plain. General DeWitt has little material with which to prove that the coast was in such great and immediate danger that evacuation was necessary, and he must make that little material do double and triple service. This is not the tactic of a man whose conscience is easy concerning the course he has taken. The General "doth protest too much."

[186] Text of President Roosevelt's address delivered August 12, 1944, at the Puget Sound Navy Yard, Associated Press release, [illegible]

This attempt to justify evacuation in the eyes of the country and of the world by insisting that the situation on the West Coast was so different from anything existing elsewhere that extreme measures taken nowhere else were reasonable here, leads General DeWitt and those who have followed him, not only to a distortion of the details of the Pacific phase of the struggle but also to a most peculiar appraisal of developments in the entire war. One would think, to read General DeWitt's account, that World War II was fought somewhere between San Diego, California, and San Francisco, and that the rest of the United States and the world learned about the dispute some years later!

General DeWitt's claim that he was forced to extraordinary measures because he was confronted with a military and internal situation without parallel elsewhere has been mercilessly analyzed and excoriated by Harrop A. Freeman, Professor of Constitutional Law and *Jurisprudence* of the College of William and Mary. In trenchant words Professor Freeman describes the actualities:

> "At the same time that we were girding ourselves for battle in the Pacific, Germany and Italy also declared war on the United States. Both these countries had experienced phenomenal military successes as even the briefest chronological history will recall. Italy had overrun Ethiopia and Albania; had invaded British African colonies, Egypt, and Greece; with the help of Germany had taken Crete and other Mediterranean islands and completed the conquest of Greece, thus challenging Britain's lifeline in the Mediterranean. Germany, rising from complete impotence in military matters in 1933, had occupied the Rhineland, annexed Austria, forced upon England and France the Munich appeasement, overrun Czecho-

slovakia, and devastated Poland in twenty-six days. She had occupied Denmark and invaded Norway, crushed the Netherlands in four days and Belgium in seventeen days; had annihilated the highly ranked French army and conquered France in ten days; had launched and maintained mass air raids on England consistently for nearly six months and had achieved a recognized superiority in the air over England. The Nazis had taken Rumania with her rich oil wells and Bulgaria and had moved to swift victories in Greece and Crete. Turning from England she had invaded Soviet Russia on a 2,000 mile front and had piled victory upon victory—Kiev, Odessa, Kharkov, the outskirts of Moscow, Rostov. All these were completed immediately prior to March, 1942; and she went on immediately to take Sevastopol, a large part of the Caucasus, and Stalingrad. Surely in early 1942 the Germans seemed invincible.

"Nor had the German efforts been limited to Europe. German armed ships and submarines had terrorized our Atlantic shipping and waters within 100 miles of our east coast. We recall a few of the better known examples: the raider *Deutschland* seized the S. S. *City of Flint*; the *Graf Spee* and the *Columbus* were scuttled off the American coast; the *Robin Adair* was sunk by Nazi submarines in the South Atlantic; the United States Destroyer *Kearny* was torpedoed off Iceland, and the destroyer *Reuben James* was torpedoed nearer our coast. The number and proximity to our coast of the sinkings became alarming by January, 1942. So complete was Germany's freedom of movement in our waters that a submarine shelled the oil refineries on Aruba, in the Caribbean, on February 16, 1942, and submarines were able to

land saboteurs and quantities of explosives at two points on our coast on June 13 and 17.

"In Africa, Rommel launched his successful drive in January, 1942, which carried him by June to almost complete control of North Africa. The Germans had large concentrations of planes, battleships, and submarines at bases nearer to New York than are Hawaii, Kiska, or Midway to the west coast. The roundup of two German spy and saboteur rings on the east coast was just being completed; the influence and size of the German-American Bund were being revealed and quantities of munitions in their possession were being seized. By comparison, our successes in the Pacific were considerably greater than those in the Atlantic; and Japan, unable to conquer China in seven years, was a less formidable foe than Germany with her record of conquest after conquest of the most difficult antagonists. Certainly there was no clearer 'military necessity' in the Pacific than there was in the Atlantic."[187]

Not only were military and naval developments as grave in the East as they were in the West at the time when General DeWitt launched his evacuation program, but the internal situation and the propaganda front were infinitely worse. There is no need to go into detail concerning the potential threat that a military commander might have seen in the German and Italian populations of the East Coast, but a few facts should be kept in mind.

In the Middle Atlantic States of New York, New Jersey and Pennsylvania alone there were, at the outbreak of

[187] Hatrop A. Freeman, "Genesis, Exodus, and Leviticus, Genesis, Evacuation, and Law," *Cornell Law Quarterly*, Vol. XXVIII, No. 4, June

war, 484,000 persons who were German-born and 169,000 of them were enemy aliens.[188] Most of them, it may be added, lived in or near seacoast cities. In the State of New York, for instance, 316,849 persons who had been born in Germany were living, and of these 128,735 were enemy aliens.[189] On June 12, 1943, the Census Bureau reported that there were 429,060 white persons of German "mother tongue" (*i.e.*, persons living in homes where German is the principal language spoken) in New York City.[190] Throughout the United States, but chiefly concentrated in the east, were 3,949,780 white persons of German "mother tongue," divided into 1,589,040 foreign-born, 2,436,777 native-born of foreign or mixed parentage, *and 925,040 native-born of native parentage.*[191] When the bogey of Japanese unassimilation is raised, these figures might be kept in mind.

If these hundreds of thousands of people had shown no interest in "the New Germany" or in Germany's military program, their mere numbers would have been of no importance; but there is general knowledge and a voluminous literature concerning the amount and effectiveness of Nazi propaganda in the United States.[192] The facts are so well

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[188] *Tolan Committee Report* of May, 1942, Table 2 (Foreign Born Germans and Italians in the United States by Divisions and States, 1940), pp. 229-30.

[189] *Idem.*

[190] *N. Y. York Times*, June 13, 1942 (Special dispatch from Washington, D. C.).

[191] *Idem.*

[192] For some conception of the degree to which this country was permeated by Nazi propaganda see Henry L. Stimson, Charles C. Burlingham, Nicholas Murray Butler, and others, *The German-Reich and Americans of German Origin*, New York, Oxford University Press, 1938; Robert Strausz-Hupé, *Axis America*, New York, George P. Putman's Sons, 1941.

known that we shall quote but one statement written by a distinguished student in a scholarly publication:

> "Gray-shirted O. D. or *Ordnungsdienst* men of German-American Bund managed a crowd of 20,000 people in Madison Square Garden at the Bund's 'Pro-America Rally' in 'honor' of Washington's Birthday, 1939. Fritz Kuhn, Bund Fuehrer, claimed before being sent to Sing Sing the next year that his organization had 20 summer camps, 71 local units spread over the country, and $900,000 annual revenue. News stories were telling of rallies at camps attended by 5,000 to 12,000 members and sympathizers, of Nazi bunting, and of goosestepping, Heil-Hitlering, O. D. troopers.
>
> "Of 178 German-language periodicals in the United States (including 13 dailies and 111 weeklies), all but a few gave favorable treatment to the Nazi regime, according to a survey made in the fall of 1940."[193]

The figures of foreign-born and alien Italians on the East Coast are even less reassuring. In the tiny seaboard states of New England there were over 230,000 persons who had been born in Italy and more than 106,000 of them were aliens.[194] The Italian-born population of the three Middle Atlantic States was 950,000, and the enemy aliens among them numbered 300,000.[195]

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[193] Alfred McClung Lee, "Subversive Individuals of 'Minority' Status," The Annals of the *American Academy of Political and Social Science*, Vol. CCXXIII, 1942, pp. 164-65.

[194] *Tolan Committee Report* of May, 1942 ("Foreign Born Germans and Italians in the United States, by Divisions and States, 1940), pp. 229-30.

[195] *Idem.*

These Italians too had been subjected to a barrage of Fascist propaganda and had not been entirely uninfluenced by it, as another excerpt from Lee indicates:

> "Late in 1938, the Reverend Leon M. Birkhead discovered that there were then at least eight hundred organizations in the United States that 'could be called pro-Fascist or pro-Nazi.' . . .
>
> ". . . Mr. Birkhead guessed that 'one voter in every three in the United States is being subjected to Fascist propaganda.'
>
> ". . . In 1940 the Mazzini Society estimated that 80 per cent of the 120 Italian-language publications in the United States were then Fascist, 10 per cent anti-Fascist, and the balance neutral."[196]

If, in the face of these statistics and these facts the military leader in charge of the Eastern Defense Command had reason to believe (and rightfully believed, as events have shown) that the Department of Justice and the Intelligence Services could successfully cope with any manifestations of disaffection on the part of these vast segments of our population, an opposite conclusion on the part of General DeWitt in respect to the relatively few persons of Japanese ancestry on the West Coast must be ascribed to personal rather than to professional reasoning.

If any further proof of this is needed, we have only to look at the Hawaiian example. General DeWitt actually seeks to explain the evacuation, concentration and detention of mainland persons of Japanese ancestry, in

[196] Alfred McClung Lee, *Op. cit.*, pp. 164-65.

terms of the success of the Pearl Harbor attack and the danger in which our Hawaiian stronghold stood.[197] *Yet none of these extreme measures were ever adopted there.* General DeWitt speaks often of the "sensitive" area it was his duty to protect.[198] It must have been sensitive, indeed, for though if was 1,500 miles away, it seemingly felt the force of the Pearl Harbor blow to a much greater degree than was the case at the very point of attack!

Unfortunately, General DeWitt has not been alone in this type of reasoning. Although the action which was under consideration then is not nearly as far-reaching as the one being decided now, in its Opinion in the *Hirabayashi* case this Court upheld the application of a curfew to those of Japanese ancestry on the West Coast, alone of all American citizens, because, in its words:

> "Although the results of the attack on Pearl Harbor were not fully disclosed until much later, it was known that the damage was extensive, and that the Japanese by their successes had gained a naval superiority over our forces in the Pacific which might enable them to seize Pearl Harbor, our largest naval base and the last stronghold of defense lying between Japan and the west coast."[199]

One might suppose that General DeWitt or anyone else who supports differential treatment for those of Japanese ancestry would be extremely diffident about calling attention to Hawaii. If there were not another single scrap of evidence in the wide world to suggest that evacua-

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[197] *Final Report* of General DeWitt, pp. 17-18.

[198] *Ibid.* p. vii.

was arbitrary, cruel and totally unnecessary, the waiian example would be sufficient. It is incredible, en the premise that man is capable of logical thought, t knowledge concerning what happened in Hawaii debate over the necessity of the West Coast evacua- can flourish at the time. The Hawaiian assault un- stakably answered the question of what persons of anese ancestry, alien residents and Americans of Japa- e ancestry alike, would do in the event of an attack by an. It answered the question of whether those of anese ancestry would take advantage of reverses, fusion and disaster to commit sabotage in the event of h an attack. It answered the question of whether a h column existed among those of Japanese descent h was ready to act when the enemy struck. It an- ered the question of whether the "ethnic affiliations" the people of Japanese ancestry residing in or native this country were with the United States or Japan. answered the question of whether the people of Japanese estry, if they were left unmolested and were assumed be patriotic and law-abiding, would co-operate cheer- ly for the common good and the common victory. The swers were given with the first thunder of the war and neral DeWitt, alone of all our military commanders, nored those answers completely.[200] Let it not be said those who write the history of law and the history of

[200] For material concerning the patriotic behavior and full cooperation h the authorities of the people of Japanese ancestry in Hawaii at the e of Pearl Harbor and since see: *Tolan Committee Report* of May, 2, pp. 48-58; Thomas Blake Clark, *Remember Pearl Harbor*, New York, dern Age Books, Inc., 1942; Thomas Blake Clark, "Japanese in Hawaii," *Republic*, September 14, 1942, pp. 308-10; Cecil Hengy Coggins, "The anese Americans in Hawaii," *Harpers Magazine*, June 1943, pp. 75-83; en M. Fisher, "Untruth About Japanese Americans," *Christian Century*,

man's conscience, that the highest court in this land, in order to gloss over a *fait accompli*, also ignored those answers.

Every excuse manufactured for mainland evacuation is as true or more true of Hawaii. General DeWitt has brought up the question of numbers. There were approximately 160,000 persons of Japanese ancestry in Hawaii and they were comprised, not one-thousandth of the population as on the mainland, but approximately 38 percent of the population.[201] General DeWitt has appealed to the argument of concentration. The 112,000 persons whom he ordered evacuated lived in the 324,123 square miles of the three West Coast States. All the Hawaiian Islands combined, where the 160,000 persons of Japanese ancestry continue to live undisturbed, have a total size of 6,449 square miles. General DeWitt attached special significance to the fact that "Japanese" lived in the vicinity of West Coast military installations. The "Japanese" of Hawaii have worked in the naval yards and military establishments of Hawaii, *before* and *since* Pearl Harbor.[202] General DeWitt sees a vindication of his policy in the existence of West Coast Japanese language schools. But the first Japanese language schools on American territory were established in Hawaii and continued to exist there until the beginning of the war.[203] General DeWitt talks of Japanese perfectual, social and business organizations. They were present in Hawaii, too. He appeals to fear over dual citizens and kibei. Hawaii had as gre

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[201] *Tolan Committee Report* of May, 1942, Table 1 (Japanese Population of the United States and Its Territories and Possessions, 1940), p. 94

[202] Thomas Blake Clark, *Remember Pearl Harbor*, 1942

r greater a proportion of them.[204] He asks us to take eriously the "reports" of signaling and of the sending f wireless messages to the enemy which streamed into his ffice during the first days of the war. In Hawaii, too, nnumerable and fantastic stories circulated initially, but he military commander *there* remained calm, and allowed ime to cut them down to their proper stature.[205] General DeWitt grows eloquent over the "attacks" on the West Coast, the small incendiary bomb which failed to tart a fire in Oregon, the shells which missed the Goleta il fields. Does he pretend to compare these with the lows which sank battleships, destroyed scores of aircraft nd inflicted thousands of casualties at Pearl Harbor? That Hawaii was in infinitely more danger than was the West Coast is not only apparent from its geographical osition, and from the fact that it was actually the object f the savage attack with which the war started, but it must also be remembered that martial law was speedily declared in Hawaii, though it was never proclaimed on the West Coast. It is plain from this that the army considered Hawaii a definite theater of war, and never so considered the West Coast of the mainland. Because of this, what was done in respect to persons of Japanese ancestry on the mainland could have been accomplished with much more show of legality in Hawaii. But it was

[204] Hearings before the Joint Committee on Hawaii, Congress of the U. S., 75th Congress, Second Session; Pursuant to S. Con. Res. 18 (Statehood for Hawaii), October 6 to 22, 1937, Washington, D. C., pp. 46-48, 57-58, 60-61, 66, 115, 147-58, 288-93, 295-97, 302-05, 309, 313-15, 470-76, 538-41, 389, 419-20, 586-87.

[205] Cecil Heftey Coggins, *Op. cit.*, p. 76; Kendall J. Fielder, Headquarters Hawaiian Department, Colonel, G.S.C., Ass't. of S, G-2, Office of the Assistant Chief of Staff for Military Intelligence. Quoted on page 16 of *70,000 American Refugees*, a pamphlet published by The Citizens Committee for

not done there and no one even suggests that there was cause or necessity for doing it. How much less cause or necessity, then, was there for a West Coast evacuation!

General DeWitt's insistence that lack of time and an extremely difficult military situation prevented any other course of action except evacuation, and made hearing boards unfeasible in particular, runs counter to still other facts.

The persons who were ordered out of their homes by General DeWitt's 108 civilian exclusion orders were not taken at once to the inland camps now known as Relocation Centers. These were not even built then. Instead they were removed to temporary concentration points *within the three West Coast States.* Race tracks such as Santa Anita and Tanforan in California and fair grounds such as the one at Pomona, California, were utilized as a stop-gap. In these make-shift "Assembly Centers" the people lived in appalling concentration for several more months. It was October 28, 1942, before a release from General DeWitt's headquarters permitted the newspapers to announce, "Transfer of persons of Japanese ancestry from strategic military areas on the West Coast will be completed by November 1, 1942."[206] Thus it was nearly eleven months after the attack on Pearl Harbor before persons of Japanese ancestry were out of the area which General DeWitt deemed subject to enemy attack. If General DeWitt's evacuation plans were designed to protect the coast during the early phase of the war, when Japan held the initiative, his method of dealing with the problem

even by his own standards, must be considered a dismal failure.

Furthermore, if "military necessity" was General DeWitt's guiding principle, we have a right to ask some very pertinent questions. Why, for instance, did the policy of mass evacuation continue after the Midway success had eliminated the danger of coastal attack? The people of Japanese ancestry were still in the temporary Assembly Centers. The huge and expensive task of building and manning the permanent Centers had not yet been undertaken. The business and property ties of many of the "Japanese" had not yet been severed. The immediate danger was much relaxed. Why could not hearing boards have been set up in June, 1942, then, and thousands of American citizens released to return to their homes, their jobs, their fields or wherever America's war and productive needs called them? There is no evidence that a thought of such a possibility ever crossed General DeWitt's mind. The machine which he had set into motion moved on inexorably, oblivious to human values, to citizenship rights or to the changing character of the war.

From this picture of General DeWitt's eleven months of "immoderate haste" during which evacuation was continuing, we turn to a consideration of the Hearing Board procedure which could have accomplished the purpose far better, in a fraction of the time and at an expense so much less that it staggers the imagination to contemplate it. It should be kept in mind that by November 30, 1942, the cost to the government of building Centers and removing evacuees to them already totaled $88,679,716.69.[207] Hundreds of persons connected with the Federal Reserve

Bank, the Farm Security Administration, the Wartime Civil Control Administration, the Army, the Intelligence Services, the Bureau of Naturalization and Immigration, the Office for Emergency Management; the Federal Security Agency, and the Federal Works Agency, to mention only the most important organizations involved, had been employed for months at this task of uprooting a people. A foolproof inquiry into the loyalty of every person in the nation could have been consummated at less cost and effort.

If General DeWitt had only known it, there had already grown out of the war an ideal parallel for the mistake which he was to make, and an excellent example of the manner in which to correct it.

At the beginning of the war with Germany, England created 112 alien tribunals or hearing boards, and over 74,000 enemy aliens were summoned before them. *This large number of cases was examined in six months.* As a result of the hearings two thousand persons were interned, approximately 8,000 were made subject to special restrictions, and the rest went their usual way.[208]

When the Low Countries were overrun, however, and France collapsed, panic seized the nation. As in this country the correlation between military reverse and repressive action was high. June 21, 1940, the day on which France fell, became "general internment" day in England. Practically every alien was taken into cus-

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[208] Maximilian Koessler, "Enemy Alien Internment, With Special Reference to Great Britain and France," *Political Science Quarterly*, Vol. LVII, No. 1, March, 1942, p. 402; Robert M. W. Kempner, "The Enemy Alien Problem in the Present War," *American Journal of International*

tody.[209] Even the refugees from Germany were not spared, for a rumor had gained ground to the effect that Hitler had sent spies to England in the guise of persons seeking asylum.[210] The same two types of thinking now emerged which have also marked the debate over evacuation in this country. Mr. Pickthorn, who inclines toward the DeWitt point of view, asserted in the House of Commons, on August 22, 1940:

> "If an archangel appeared before all the members of the War Cabinet at once and said, 'There is one red-headed man in England who, unless care is taken, will do something to injure the State,' I think it would be the duty of the war Cabinet to see that all red-headed men were interned . . . ."[211]

To this, Mr. Wedgwood, who comes somewhat nearer our view, responded:

> "Every nation is divided into two different schools of thought, one school on our side and the other school on the Nazi side. It is out of date to talk of enemy aliens . . . . The danger (if the Germans invade this country) would come from the Fascist party, from people who were defeatists, and from people who have nothing to lose if Hitler comes here . . . ."[212]

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[209] Maximilian Koessler, *op. cit.*, pp. 104-05; Francis Biddle, "The Problem of Alien Enemies," *Free World*, Vol. III, No. 3, August, 1942, p. 203; *Refugees in Britain*, A boardsheet issued by Political and Economic Planning, (printed by St. Clements Press, Ltd., and published by Political and Economic Planning, 16, Queen Anne's Gate, London), No. 216, January 14, 1944, pp. 5-11.

[210] Maximilian Koessler, *Op. cit.*, p. 105.

[211] *Idem.*

Our own Attorney-General Biddle has described England's brief capitulation to the DeWitt formula and the subsequent reaction of the English against it:

> "The Government yielded to the pressure and all aliens were thrown into hastily laid out camps. Conditions there were bad. Britons themselves deplored the error. Sir John Anderson, then Home Secretary, said the wholesale internment victimized 'some of the bitterest and most active enemies of the Nazi regime.' Said Rhys Davies: 'I am sure the treatment meted out to our alien population in the last few months is not the result of cruel intention but of panic and sheer stupidity.' A letter to the *Times*, signed by a group of prominent Londoners, among them H. G. Wells, included the opinion that 'nothing could be more calculated to dishearten our friends and allies in Germany and Austria than the news that Britain has put under lock and key her own anti-Nazis of German and Austrian origin.' Then the reaction set in. The British public, having undergone a few bombing raids, ran true to form. In real danger the British forgot their fears. Letters began pouring in to the internees at the rate of 120,000 a week. Pressure again was exerted on public officials. Picking and choosing started all over again."[213]

It was not long before the Home Secretary was able to say:

> "Of scores of thousands of aliens, only 9,700 are still detained. A democracy confident of its cause and of itself does not need to use a big stick at home."[214]

[213] Francis Biddle, "The Problem of Alien Enemy," *Free World*, p. 203

[214] Alan Cranston, "Enemy Aliens," *Common Ground*, Winter, 1942, p.

We emphasize that the persons whom England refused to keep in internment without hearings or evidence of individual guilt, even in the face of air raids and while the Germans were singing "We Sail for England" a scant twenty miles away, were not British subjects but *enemy aliens.*

It is important to realize that when West Coast security and the relation of the "Japanese" population to fears concerning that security were under discussion, the establishment of Hearing Boards was repeatedly advanced as an alternative to mass evacuation.

Dr. Galen Fisher, distinguished West Coast civic and religious leader has described the fruitless struggle for Hearing Boards in which he and other eminent West Coast residents engaged with General DeWitt:

> ". . . the Committee on National Security and Fair Play advocated selectivity for all Japanese, until it became apparent that this had been ruled out for Japanese *aliens* by General DeWitt. Thereafter, the committee advocated selectivity for *citizens* of Japanese parentage. In this position it was joined by the religious and social work leaders of the coast, as well as by influential representatives of the bar. In a studied opinion dated March 6, 1942, and submitted to State Attorney-General Warren, Mr. Gerald H. Hager, former president of the California State Bar Association, contended that 'the loyal Japanese-Americans should be given some reasonable opportunity to prove that it is unnecessary for them to remain outside of a specified area,' and he suggested that 'some board or other tribunal could be set up' for that purpose.

"The above-mentioned committee, in a memorandum presented to General DeWitt on March 9, argued thus:

"'Let all *nisei* be given the opportunity of being examined as to their loyalty or disloyalty by hearing boards in the communities where they now reside. The Appeal Boards of the Selective Service appear to be made to order for this purpose . . . The process could be completed in six weeks at the outside . . . The proposed evacuation of the entire group of *nisei*, but of no other group of citizens, apparently on the basis of race, is already embittering some of them and making them turn a ready ear to communist and other subversive ideas. It is also causing acute distress to many white citizens like ourselves, who are concerned over every violation of the democratic principles for which we are fighting . . . Furthermore, the indiscriminate evacuation of *nisei* citizens will, in our judgment, weaken rather than strengthen the civic morale which is an essential element in national security during the war and of national unity after the war.'

"The constitutional validity of evacuating *aliens* of any nationality without a hearing or other 'due process of law' was generally accepted by both sides of this controversy. Evacuation of *citizens*, short of martial law, was held by some witnesses before the Tolan Committee, by members of Congress, and by the Tolan Committee itself, to be constitutionally dubious."[215]

In another article Dr. Fisher, who was in closest touch with the situation during the policy-making period, again

discusses the vain attempt to win the General over to the concept of Hearing Boards. This time he gives added details concerning the identity of the distinguished citizens who urged the adoption of the Boards, and, even more important, he reveals the grounds upon which the General rejected their proposal. It turns out to be nothing more reasonable than the fantastic race theory of General DeWitt which we have encountered before;

> "Eminent groups of citizens, such as the Committee on National Security and Fair Play, headed by General David Barrows, Henry F. Grady, Presidents Sproul and Wilbur and Dr. Robert A. Millikan, urged General DeWitt to set up such Boards. They and many others familiar with the Japanese residents held that it would be but little harder to distinguish the dangerous from the loyal Japanese than in the case of persons of most other races, and that, by utilizing the Appeal Boards of the Draft, the hearings could be completed within five weeks. Even though a large number should be found disloyal or doubtful, and therefore refused exemption from evacuation, the mere fact of having been given a hearing would have a deep influence on morale, and would vindicate for all citizens the cherished guarantee of the Constitution, of 'due process of law.'
>
> "General DeWitt finally declined to allow hearings. His representatives argued that they would cause delay when speed was urgent, and that it would be practically impossible to establish the loyalty of anyone of Japanese race."[216]

[216] Galen M. Fisher, "The Drama of Japanese Evacuation," in *A Touch-*

Prominent leaders of the West Coast were not the only persons who raised their voices in favor of the establishment of hearing boards. On April 30, 1942, over two hundred well-known citizens of the eastern part of the country, among them John Dewey, Harry Emerson Fosdick, Alfred Bingham, the Rt. Rev. Mons. Liugi G. Ligutti and Mary E. Woolley, recognizing the uselessness of attempting to deal with General DeWitt, penned a letter which they sent directly to the President. In it they said:

> "The immediate and specific purpose of this letter is to urge you to extend to Japanese aliens, and especially to citizens of Japanese origin on the West Coast, the right to a hearing before civilian boards to attest their loyalty. This should be done, if possible, before evacuation from their homes and business, but also, in cases where they have already been removed, in order to establish the right to return to their homes.
>
> "This is a principle partially established in dealing with German and Italian aliens. It has been recommended in detail by the Tolan Committee of the House of Representatives for the benefit of Italian and German aliens resident in the great area from which all Japanese have been evacuated. To grant to Italian and German aliens a right denied to American citizens of Japanese origin is a type of race discrimination for which there is no ethical justification. Many of these citizens are graduates of our schools and colleges whose usefulness as workers and citizens has been attested by the leaders of communities in which they live. This whole process, we believe, is of itself a blow to our democracy and will gravely

affect our reputation for racial fair play among the nations of the world. It is the type of discrimination which, throughout much of Asia, will greatly strengthen the hands of our enemies."[217]

Not only did distinguished lawyers, educators, churchman and civic leaders speak out convincingly and boldly for Hearing Boards, but the articulate among those who were closest to the problem, and who, indeed, had the responsibility of protecting the coast from subversive activity, indicated that they were of the same opinion. In October, 1942, *Harper's Magazine* printed an article of which the editors said:

> "The following statement . . . . was prepared in May, 1942, by an intelligence officer who for a number of years was stationed on the West Coast and who during that time had made a particular study of the Japanese population. . . . It will be noted that *individual examination* is the core of the author's proposal. . . ."[218]

As the editors of *Harper's* indicate, the statement, first written as a confidential memorandum, is a direct and informed plea for hearing boards and a discussion of what their composition and nature should be. This intelligence officer ends by asserting:

> "The entire 'Japanese Problem' has been magnified out of its true proportion, largely because of the

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[217] A letter to the President of the United States signed by over 200 interested citizens, dated April 30, 1942. Printed and distributed by the Post War World Council, 112 East Nineteenth Street, New York City, June, 1942.

[218] An Intelligence Officer, "The Japanese in America: The Problem and the Solution," *Harpers Magazine*, October, 1942, p. 490.

physical characteristics of the people. It should be handled on the basis of the *individual*, regardless of citizenship, and *not* on a racial basis."[219]

General DeWitt's argument that swift Japanese successes and the possibility of the invasion of the West Coast left him no alternative but to order evacuation, is not in accord with the facts. Actually the evacuation was not completed until eleven months after the outbreak of war and the most painful aspects of it occurred when the military crisis had already passed. No such policy was put into effect in Hawaii, though that place was the center of actual attack, though martial law had been declared there, and though the conditions which General DeWitt pointed to on the coast were true also of the islands. A military and internal condition on our East Coast which was quite as critical as anything General DeWitt confronted, was not inflated to a "military necessity" requiring mass evacuation of citizens on the basis of ancestry. To satisfy any misgivings that the public might have felt, hearing boards could easily have been set up. England had used such hearing boards to advantage. Persons of prominence and position, who have had abundant executive experience and social responsibility and who might be expected to know what is feasible and workable, urged the use of hearing boards upon the General. General DeWitt made no secret of the fact that his rejection of these suggestions was grounded in race prejudice.

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[219] *Ibid.*, p. 497.

10. The Doctrine of Protective Custody Is Un-American and Dangerous to Our Institutions. There Was no Public Threat to Persons of Japanese Ancestry and no Genuine Popular Demand That They Be Removed.

When Attorney-General Biddle announced to the nation's press that the President had signed the executive order which was to become the authority for the mass evacuation of citizens, he said, "The move has been taken largely for the protection of the Japanese themselves."[220] Two months later, Secretay of War Stimson asserted in a letter to Mary W. Hillyer of the Post War World Council that the evacuation was "imperative, not only for the safety of our country but for their own protection."[221]

This insistence that evacuation was a form of "protective custody" and really sprang from solicitude for the people involved, has been greeted, and rightfully so, with scepticism and alarm by those concerned for this country's good name and future.

Dr. Robert Redfield, Dean of the Division of the Social Sciences of the University of Chicago, has written on the point:

> "When it is argued that these people had to be evacuated for their own protection from a fearful and angry Caucasian population, it will be asked if the government is establishing a principle of 'protec-

[220] *New York Times*, February 21, 1942. (Special dispatch of Lewis Wood of February 20 from Washington.)

[221] Letter of May 25, 1942, of Henry L. Stimson, Secretary of War, to Mary W. Hillyer. Copies mimeographed and distributed by the Post War World Council, 112 East Nineteenth Street, New York City.

tive custody' of suspiciously foreign flavor and offensive to the Bill of Rights."[222]

The claims for "protective custody" have also been examined by William Henry Chamberlin, who points to the obvious dangers involved:

> "It (evacuation) is not a reprisal for proved disloyalty; it could be regarded either as preventive punishment or as 'protective custody.'
>
> "There is almost nothing that could not be done under the principle of preventive punishment. And no group that might in the future be unpopular in some locality for reasons of race, color, or religion, could feel safe if the consequence of a threat of mob violence should be not the maintenance of law and order, but the uprooting and deportation of the threatened group."[223]

The ominous turn in American policy which evacuation has brought is sharply criticized, too, in a recent issue of *Fortune Magazine:*

> "The American custom in the past has been to lock up the citizen who commits violence, not the victim of his threats and blows. The doctrine of 'Protective custody' could prove altogether too convenient a weapon in many other situations. In California, a state with a long history of race hatred and vigilanteism, antagonism is already building against the Negroes who have come in for war jobs. What is to prevent their removal to jails, to 'protect them' from

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[222]Robert Redfield, "The Japanese Americans," in *American Society in Wartime*, Edited by William F. Ogburn, University of Chicago Press, 1943, p. 160.

[223]William Henry Chamberlin, "Why Civil Liberties Now?" *Harpers Magazine*, October, 1942, pp. 330-31.

riots? Or Negroes in Detroit, Jews in Boston, Mexicans in Texas? The possibilities of 'protective custody' are endless, as the Nazis have amply proved."[224]

Not only is the doctrine of "protective custody" un-American, evil, and dangerous in any case; it was totally unnecessary and unwarranted in this particular case. The great mass of the people of the West Coast, including the people of California, were initially disposed and determined to be just, fair and calm. If they had been encouraged in that resolve by the government, if the relevant facts, such as the truth about the blameless behavior of Japanese residents and citizens of Japanese ancestry in Hawaii on December 7 had been promptly released, if the government had harkened to evidence rather than to opinion, and to representative citizens instead of to pressure groups whose very origins and purposes are rooted in bigotry, the execrable rationalization of "protective custody" would not have to be offered today.

General DeWitt in his *Final Report* carries forward the argument of the need for protective custody. He claims that "the situation was fraught with danger to the Japanese population itself"[225] and that the West Coast public "was ready to take matters into its own hands."[226] His discussion of the "incidents of violence" however, is exceedingly brief and vague. He does not tell us when or where violence occurred or how many injuries or fatalities were sustained. Finally he admits that many of the alleged

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[224]"Issei, Nisei, Kibei," *Fortune Magazine*, Vol. XXIX, No. 4, April, 1944, p. 118.

[225]*Final Report* of General DeWitt, p. 8.

[226]*Ibid.*, p. 9.

incidents which were reported "were subsequently either unverified or were found to be cumulative."[227] Mr. Carey McWilliams, who was Commissioner of Immigration and Housing of California at the time evacuation began, supplies the missing information. He informs us:

> "Actually, there are only two reported instances of violence. On December 27, 1941, a fight occurred between Filipinos and local Japanese in Stockton, California; and on January 1, 1942, unknown persons fired several shots at a Japanese in Gilroy."[228]

The fact that practically all of the violence and threats of violence came from Filipinos is in itself significant. The Filipinos are a West Coast minority group who in recent years have been treated far more badly than have the Japanese, and who were much more depressed economically and socially.[229] With the Japanese invasion of the Philippines these people found themselves, for the first time since their arrival in America, favorably considered by white Americans. Their initial over-compensation, once they could act aggressively and be accepted as American patriots, is much more a comment on the repression they have suffered at the hands of the West Coast anti-Oriental bloc, than it is on the situation of the "Japanese."

The fact is that responsible and influential individuals and groups on the West Coast and even further inland were determined, long before hostilities actually began, to prevent excesses in case of war between the United States and Japan.

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[227] *Idem.*

[228] Carey McWilliams, *What About Our Japanese-Americans?*, Public Affairs Pamphlets, No. 91, 1944; p. 8.

[229] Bruno Lasker, *Filipino Immigration*, University of Chicago Press, 1931, pp. 19, 20, 36, 63, 83, 92, 149, 296, 307; 323, 331.

Under the caption "Americanism," the San Pedro, California, *New Pilot*, published an editorial in December, 1940, praising the "loyalty and patriotism" of Japanese-Americans which ended by declaring:

> "Of all the various groupings of California citizens, the Japanese have the lowest crime rate, the best credit rate, no relief cases at public expense, and the highest voting turnout at election time. Try to beat that."[230]

In mid-February, 1941, Commander Maurice Sparling, U. S. N., who was attached to the Los Angeles Selective Service headquarters, addressed a banquet in honor of Japanese-American volunteers and draftees which was jointly sponsored by the Commodore Perry Post of the American Legion and the Los Angeles Branch of the Japanese American Citizens League. Later he issued this statement:

> "They are a fine group of boys, individually and collectively, all eager to prove themselves worthy of the trust they hold, and I am confident they will make the best type of American soldier."[231]

In the spring of 1941 Americans of Japanese ancestry of the intermountain states drafted a loyalty and service pledge and sent it to the governors of the states in which they resided. Governor Chase A. Clark of Idaho responded, "There has never been a single doubt as to the loyalty of the Americans of Japanese ancestry to the United States."[232] Governor Herbert B. Maw of Utah

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[230]Reprinted in the *Japanese American Review*, December 14, 1940. (A weekly of the Japanese community, published in New York City.)

[231]The *Japanese American Review*, February 22, 1941.

[232]*Japanese American Review*, April 5, 1941.

answered, "I know of no young Japanese who is not a good American."[233] Resolutions of appreciation for the good citizenship of Japanese Americans were passed by both houses of the Utah State Legislature.[234]

In May, 1941, the *Bainbridge Review* of Bainbridge, Washington, carried an editorial which took notice of the usual "charges" against young Americans of Japanese ancestry, such as their attendance at language schools, and then went on to say:

> "But we also know this from our own knowledge: Japanese students consistently make good records as scholars; Japanese students are leaders in extra-curricular activities at our high school; the Japanese on the relief rolls is a distinct oddity; the Japanese who finds himself jailed for crime is as rare as a dodo bird.
>
> "Finally we know that the Selective Service Board of Kitsap has called to the colors of our nation . . . a dozen youths from Bainbridge Island. Four of these, one-third of the total, have been Japanese.
>
> "Each Japanese boy has been honored by a banquet. Why? Because this Japanese colony is intensely proud of the fact that Uncle Sam is looking with perfect equality on all who obtain the right to citizenship."[235]

The scene of good will shifts now to Los Angeles where Mayor Fletcher Bowron in early August declared in an address:

> "If war does come, and we continue to hope it will not, the resident Japanese will face a difficult—and I

[233] *Idem.*
[234] *Idem.*
[235] Reprinted in the *Japanese American Review*, May 17, 1941.

hope none too unpleasant—situation. We have every reason to have faith in your loyalty. You have demonstrated by every sign called to my attention your desire to serve as loyal Americans, for which I commend you."[236]

At about the same time the *Los Angeles Times* took note of the oversubscription by the Americans of Japanese ancestry of their U. S. O. quota:

> "'American-born Japanese of Los Angeles yesterday testified to loyalty to America and their interest in the welfare of American soldiers and sailors by contributing to the United Service Organizations $1,500.00 or 120 percent of the $1,200.00 quota. . . ."[237]

At about this same time, Mr. Garland, Speaker of the California State Assembly, extolled the virtues of citizens of Japanese ancestry in California at a good will dinner in Los Angeles. Most of the State Assemblymen from Los Angeles County were in attendance. The speaker particularly emphasized "the role of the Japanese in making California the agricultural leader of the United States."[238]

Meanwhile in Stockton, California, the *Stockton Record* struck out editorially against allowing events in the Pacific to color attitudes toward Americans of Japanese ancestry, saying:

> "It must be recognized that most of the residents of Japanese blood are American citizens, a status they gained by being born here. Also, as shown by practi-

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[236] *Japanese American Review*, August 9, 1941.
[237] *Idem.*
[238] *Japanese American Review*, August 23, 1941.

cally every list of Stockton draftees called to the colors, the young Japanese, American-born and educated, and knowing no other homeland, are accepting their patriotic responsibilities in the same spirit as other youths.

"To all these Americans of Japanese background, Nippon's rampage is as distasteful as to the rest of us. Japan's acts are embarrassing to these people. They fear the reactions on themselves. They should be assured that they will be treated as they have been in the past so long as their allegiance is undivided."[239]

In early September of 1941 Raymond Lawrence of the Oakland, California, *Tribune* published an editorial written in a similar vein. It reminded its readers that:

"Most of these Japanese are American citizens educated in our schools, familiar with no culture save ours, and as loyal to this country as are any others.

"In every list of draftees called to the colors there have been young Japanese who have known no other homeland and who are accepting their patriotic responsibilities in the common spirit of our youth.

"The Americans who are Japanese have supported to the full the U. S. O., defense bond campaigns, and all of the programs of defense. They are contributing man-power and ideas to this country. The Americans who permit emotions or suspicions to run away with them, may be guilty of an affront to the very philosophy and allegiance which the American-born Japanese have acquired in this democracy. . . . It would be tragic and un-American if we allowed events in the Pacific to alter our appreciation and estimate

[239]Reprinted in the *Japanese American Review*, August 23, 1941.

of men and women of Japanese inheritance who put this country first in their thoughts."[240]

Another article indicative of the eagerness of the Caucasian majority to retain perspective, was penned at the end of September, 1941, by Hal Johnson, columnist of the *Berkeley Gazette*. Said this writer:

> "Legally they (Americans of Japanese ancestry) are just as much American as those of us whose ancestors came to this country *via* the Mayflower or on some of the later boats. These 'Japamericanese' are loyal Americans. They share their fellow-Americans' growing hatred of the pro-Axis army and navy leaders of Japan. And probably 99 per cent of all the Japanese population of the Pacific Slope is out of sympathy with Nippon Leadership . . . there are 500 Japanese-American young men in Camp Ord and some 25 are from Berkeley. Many of the 'Japamericanese' didn't wait to see what numbers were coming up in the big 'goldfish bowl'—they enlisted."[241]

Collier's Magazine sent James Marshall to the West Coast in October, 1941. After a thorough testing of sentiment, Marshall was ready to say:

> "In case of war, there would be some demand in California for concentration camps into which Japanese and Japanese-Americans would be herded for the duration . . . . Army, Navy or F. B. I. never have suggested officially that such a step would be necessary or even has been thought about. As we have seen, their opinion, *based on intensive and continuous investigation, is that the situation is not*

[240]Reprinted in the *Japanese American Review*: September 26, 1941.

[241]Reprinted in the *Japanese American Review*, October 4, 1941.

dangerous and that, whatever happens, there is not likely to be any trouble. With this opinion West Coast newspapermen, in touch with the problem for years, agree almost unanimously (emphasis supplied)."[242]

The campaign for fair play and reason continued through the autumn of 1941. In late October the *Sun* of San Gabriel, California, ran a pointed editorial on the subject:

"We don't have to make a case for the Japanese in this country. We've done that before, and we stand by our guns. The Japanese young people who were born in this country and hence are American citizens are good American citizens—as good as the best, and there's no need to doubt their loyalty.

"They've proved themselves good citizens in the best possible way—by staying out of the courts and off police rolls, by remaining off the relief lists, by oversubscribing their U. S. O. quotas, by purchasing defense bonds to the point of sacrifice.

"Patriotic Americans believe in fair play. And their very safety depends on real unity. The easiest way to break down that unity is to create suspicion among one group of Americans in regard to some other group. Let's squelch this talk whenever we hear it."[243]

The newspapers of the West Coast were joined by the Church in the effort to maintain national unity and justice. An example of the attitude of religious bodies is this

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[242]James Marshall, "West Coast Japanese," *Collier's Magazine*, October 11, 1941, p. 15.

[243]Reprinted in the *Japanese American Review*, November 1, 1941.

resolution of the Seattle Council of Churches, passed in late November, 1941:

> "We wish to congratulate you on the good record the Japanese in the United States have for being a law-abiding people. Both the first generation and the Nisei are above average in the matter of good citizenship and the observances of the best social usages. We feel that you have nothing to fear from the American government or the American people as long as you continue such conduct.
>
> "We wish to assure you of the sympathy and cooperation of the Church. We urge you to take any problem that may arise because of the international situation, or because of any local matter, to any Christian with whom you may be acquainted. Please do not hesitate to confer with any Christian pastor relative to any problem that may arise."[244]

The beginning of the war did not reverse the dominant attitude of fairness on the part of the press and representative citizens. One writer, after a thorough analysis of West Coast newspapers and opinion for the period describes the prevailing sentiment thus:

> "During the first weeks of the war the dominant tenor of news stories was for fairness and tolerance, restrictions applied equally to all enemy aliens, and *There was no mention of total evacuation!* If the military had sound reasons for it, they were not apparent nor put forward in the weeks immediately following Pearl Harbor."[245]

[244] *Japanese American Review*, November 29, 1941.

[245] Caleb Foote, *Outcasts*, 1944, p. 5. (A pamphlet published at 2929 Broadway, New York City.)

It is obvious that in these first days of the war it was the belief of government officials and even of politicians that sanity should and would be preserved. On the day after Pearl Harbor Attorney-General Biddle could say:

> "There are in the United States many persons of Japanese extraction whose loyalty to the country, even in the present emergency, is unquestioned. It would therefore be a serious mistake to take any action against these people."[246]

This mood was evident in Congress, too. On December 10, 1941, Congressman Gearhart of California arose in the House of Representatives to say, in response to a message from the Japanese of Fresno, California:

> "Mr. Speaker, it is today my privilege to transmit to the President of the United States a copy of a telegram, the original of which I have just received from an American patriot of Japanese origin. Because of the warm assurance of support of our just cause which it contains, I am pleased to inform the membership and the country of its contents."[247]

Two days later Representative John M. Coffee of the State of Washington said in the House:

> "As one who has lived as a neighbor to Japanese-Americans, I have found these people, on the whole, to be law-abiding, industrious, and unobtrusive. Let us not make a mockery of our Bill of Rights by mistreating these folks. Let us rather regard them with understanding, remembering they are the victims of

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[246] Quoted from the *San Francisco Chronicle*, December 9, 1941.

[247] *Congressional Record*, House, December 10, 1941.

a Japanese war machine, with the making of the international policies of which they had nothing to do."[248]

All informed opinion agrees that in the early days of the war, when shock and resentment over Pearl Harbor was at a maximum, there was relatively little tendency to make persons of Japanese ancestry the scapegoat for events in the Pacific. The American Civil Liberties Union is particularly sensitive to any acts of discrimination and to infringements of rights of minorities, but in the December 20, 1941, issue of *The Open Forum*, the organ of the Southern California Branch, we find these reassuring sentences:

> "The feelings of many people were highly wrought up, but we are happy to report that little in the way of vigilante action occurred. There were threats, angry words and name-calling, but very few genuine cases of assault on persons or property."[249]

From further north came a statement from Richard L. Neuberger, keen student of Pacific Northwest problems:

> ". . . no demonstrations against Japanese residents have occurred. Governor Culbert L. Olson of California asked for tolerance in the state with the largest Japanese population. John Boettiger, the President's son-in-law, wrote in the Seattle *Post-Intelligencer*, 'Many of the Japanese in America are as loyal as any white Americans, and it would serve only evil purposes to cause them to suffer'."[250]

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[248] *Congressional Record*, Appendix, December 12, 1941.

[249] *The Open Forum*, Vol. XVIII, No. 51, December 20, 1941, p. 2.

[250] Richard L. Neuberger, "Reveille in the Northwest," *The Nation*, December 20, 1941, p. 638.

Chester H. Rowell, one of the most respected figures of the West Coast newspaper world, was able to write on December 13:

> "Many of them (Americans of Japanese ancestry) are now serving in our army, and many of the others are organizing patriotic societies, rendering to this land of their birth more loyalty than we have earned of them. The older Japanese have gradually found their several places in the community. If it were not for the misdeeds of the army of their native country, their own generally excellent conduct would have won for them and for their descendants the place which the Chinese, by one generation more of similar conduct, have already won for themselves. . .
>
> "I am glad to report that, so far, there has been no evidence of any such feeling (anti-American-Japanese sentiment). For their part, Japanese loyal to the United States are organizing excellently and vigorously. Old-line Americans, under the highest quality of responsible leadership, are doing the same thing. The actually disloyal we leave to the FBI and the military police, to be dealt with as individuals, like any other disloyal individuals. . . We who know our California Japanese as individuals know what fine people many of them are."[251]

On January 1, 1942, *The Japanese American Courier*, a newspaper published in Enlish in Seattle, Washington, for members of the Japanese community, celebrated its 14th Anniversary. Though this was nearly a month after the outbreak of war, messages of congratulation and assurances of faith in Americans of Japanese ancestry streamed

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[251]Chester H. Rowell, "Clash of Two Worlds," *Survey Graphic*, January, 1942, p. 13.

into the editorial offices from West Coast civic, business, educational and political leaders. Ray Lyman Wilbur, President of Stanford University and former Secretary of the Interior, wrote optimistically:

> "We look upon those who have been born into Japanese families here as worthy American citizens, fully capable of giving all of that loyalty and support which any citizen gives to his native land.
>
> "While there will be some difficulties I think that with good spirit we may come out of this present period of war with a much better situation for all of our American citizens of Japanese origin. Certainly no group has shown a greater willingness to work hard, to improve themselves and to advance their families than have the Japanese here in America. We are proud of them and have confidence in them."[252]

From Marshall N. Dana came a warm greeting and a prophecy which has already come true:

> "They (Americans of Japanese ancestry) have often found words with which to vehicle the patriotism of Americans of Anglo-Saxon heritage. Their services have often been summed up into deeds contributive to broader freedom, realistic democracy and higher ideals for America. When the war is over, some of them will be listed among American heroes. Now, therefore, they are entitled to our respect and co-operation."[253]

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[252] *The Japanese American Courier*, 14th Anniversary—"All-out for America" Issue, Vol. XV, No. 729, January 1, 1942. (Seattle, Washington.)

[253] *Idem.*

This message came from Charles A. Sprague, Governor of Oregon:

> "I commend our Japanese American citizens for their loyalty to this country during this time of international strain. I want them to know that I appreciate the situation in which they are placed and want them to suffer no discrimination personally or economically because of their ancestry. . . In this period of difficulty let us keep our heads and try to live in this land of freedom on a basis of mutual trust."[254]

The President of the Seattle Chamber of Commerce, Emil G. Sick, had this to say:

> "I take special pleasure in greeting the American-born Japanese of Seattle at the start of this year.
>
> There is not a more loyal and conscientious group, anxious to do its part in every community, state and national endeavor than these Japanese people. This has been graphically demonstrated many times."[255]

Stephen F. Chadwick, Seattle Attorney and former National Commander of the American Legion, took the occasion to reaffirm his "confidence in the loyalty and patriotism of the American-born Japanese." He went on to observe:

> "I see you as a group whose ancestors came to this country to get away from the lack of freedom and opportunity which existed under the substantially feudal baronism and the war lords who have ridden the people of Japan. . . You are, with us, American

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[254] *Idem.*

[255] *Idem.*

citizens, and it is my hope that all Americans will look upon you as such. . . . Many opportunities of service will suggest themselves to the American-born Japanese, and I assure these young men and women that I look to them with confidence to perform their service to America and to her institutions."[256]

The manager of the Washington State Taxpayers Association, Mr. Floyd Oles, sent this word of commendation:

"As you know, it has been my privilege for many years now to be closely associated with the Japanese American citizens in their daily work. . . . In appraising the success with which these young people have adapted themselves to American ways and have overcome to a large extent the added difficulty of racial characteristics different from those of their fellow American neighbors, I believe I can do so with an unusual degree of personal appreciation. I have found among the Japanese Americans whom I know, not only the qualities I have above mentioned but an enthusiasm for American institutions and for personal participation in the life of this land that have been to me both refreshing and inspiring."[257]

The excellent state of public opinion at this time can be gaged from the conviction of Professor Charles E. Martin, Chairman of the Department of Political Science of the University of Washington, that no upheaval would occur. In his word of greeting he declared:

"The American citizens of Japanese ancestry have a record of good citizenship and respect for law which speaks for itself. They only ask to be allowed to

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[256] *Idem.*

[257] *Idem.*

stand on their record, past, present, and future. That this will be the attitude and point of view of the overwhelming majority of Americans in peace and war is my earnest conviction."[258]

The same issue of the *Japanese American Courier* which carried these laudatory statements, also carried the text of a letter from the Board of Directors of the Seattle Y. W. C. A. to Mayor Earl Millikin. Mayor Millikin, the day after Pearl Harbor, had written a letter to the Seattle *Post-Intelligencer*, pleading for fair play toward Americans of Japanese ancestry. Of this action the governing Board of Christian Organization said:

"The Board of Directors of the Young Women's Christian Association wishes to commend you on your immediate and thoughtful stand taken in your letter to the *Post-Intelligencer* on December 8 concerning our Japanese American citizens.

"Your faith in these loyal citizens will do much to make for understanding and building a spirit of law and orderliness in Seattle. This in turn will create a morale that can be depended upon."[259]

During these first days and weeks of the war, expressions and acts of understanding and kindness came from all directions. Lieutenant Commander Ringle of the Los Angeles Harbor Naval District Intelligence, who had an American girl of Japanese ancestry in his employ, announced publicly on December 8 that he would retain her services as a symbol of his faith in the Japanese people. Since this officer had been investigating any alleged sub-

[258] *Idem.*

[259] *Idem.*

versive activity among persons of Japanese ancestry for a long time, his "faith" was based on the widest knowledge obtainable.[260]

Other minority groups pledged themselves to respect the rights of Americans of Japanese ancestry, too. The leading newspaper of the Los Angeles Negro community, the *Los Angeles Sentinel*, editorialized on December 11:

> "The fact that this nation is at war with Japan must not be used as an excuse for attacks on loyal Japanese citizens of this country. . . . Many Japanese business men are located right here in our (Negro) community. They have played an honorable and decent part in community activities and any persons molesting them deserve to be prosecuted to the fullest extent of the law. After all we have been the victim of race hysteria too many times to lend ourselves to persecution of other peoples whose only crime is that they are of a different color or race from ourselves."[261]

In late January expert opinion still was satisfied that there was no need for evacuation, and certainly no compelling public demand for it. In a summary published January 26, 1942, John H. Oakie of the Institute for Pacific Relations felt confident enough of the ultimate triumph of tolerance to assert:

> "If the infrequency of reports of violence against Japanese and Japanese-Americans is a fair criterion, then it must be concluded that these efforts to ensure

[260] *Newsletter*, mimeographed newsheet of the Conference Between Americans of Occidental and Oriental Ancestry, 822 East 20th Street, Los Angeles, California, Vol. 1, No. 3, January 13, 1942, p. 5.

[261] *Los Angeles Sentinel*, Los Angeles, California, December 11, 1941.

the position of this minority have been, in the main, successful. The record, as read by the Northern California Committee on Fair Play for Citizens and Aliens of Japanese Ancestry, may very well apply in the nation as a whole. In its release of December 29, 1941, the Committee said: 'The central objective of our Committee on Fair Play has been supported by the California public, even under the stress of Japan's treacherous attack. Californians have kept their heads. There have been few if any serious denials of civil rights to either aliens or citizens of Japanese race on account of war. The American tradition of fair play has been observed'."[262]

Mr. Oakie and the Fair Play Committee could well be satisfied with public temper and conditions as they stood in late January. A careful analysis of the hundreds of news stories which were carried concerning Americans of Japanese ancestry from December, 1941, to March 3, 1942, in two prominent San Francisco papers (one the liberal *Chronicle* and the other Hearst's *San Francisco Examiner*) reveals that *before January 22 there were only two suggestions that evacuation be undertaken.* Both of these occurred in the period January 1-10, 1942.[263] It was not until the last ten days of January that such suggestions became frequent and then they were limited almost entirely to political figures bent on stirring up an issue and interested in securing cheap wartime publicity. This was so obvious that the *San Francisco Chronicle*, on February

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[262] John H. Oakie, "Japanese in the United States," *The Far Eastern Survey*, January 26, 1942, p. 26.

[263] *Evacuation*, a pamphlet issued at 2151 Vine Street, Berkeley, California, January 22, 1943, p. 5.

6, 1942, lectured those who were deliberately fomenting public uneasiness:

> "The supposed 'hysteria' over enemy aliens and their descendents scarcely exists among the people themselves. . . but the excitement is visible almost entirely in political and journalistic quarters. . . They are seeking to capitalize on a supposed excitement of others which is mostly a figment of their own imaginations."[264]

Nevertheless, even after alarmists and extremists were attempting to create animosity and suspicion, many powerful voices were being raised on behalf of persons of Japanese ancestry, and the outcome of the alignment of forces was for some time in great doubt. On February 2, 1942, Governor Olson of California announced the tentative results of a conference at Sacramento which he had had with General DeWitt, Thomas C. Clark and other officials of the Army and the Department of Justice. The Governor indicated that the conferees wished to avoid "the extreme action of removing all adult Japanese to and concentrating them in the interior of the United States for the duration of the war."[265] In other words, on February 2, General DeWitt *did not assert that military necessity required the removal from the West Coast even of the enemy aliens.* A few days later, by some stroke of military insight, he had discovered a "military necessity" that demanded the mass evacuation of citizens as well as aliens!

On February 3, 1942, too, Senator Downey of California spoke over the N. B. C. network in defense of Japa-

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[264] *San Francisco Chronicle*, San Francisco, California, February 6, 1942.

[265] *New York Times*, February 3, 1942. (Special dispatch of Lawrence Davies from San Francisco, February 2, 1942.)

nese residents of his State. That he did not then believe the rights of citizens were even endangered is shown by the fact that he spoke entirely about the care that should be exercised toward the alien Japanese. He described these older people as "desperately anxious to keep out of trouble and to abide by our laws" and he told his hearers, "Since the start of the war, so far as we know, they have engaged in no destructive acts whatever."[266]

At this time, Thomas C. Clark, co-ordinator of enemy alien control for the Far West, revealed to the press something of the subject matter of the meeting he had had with Governor Olson and General DeWitt at Sacramento. He declared that no mass ousting of Japanese aliens was being planned from the Pacific Coast war zone but that serious study was being given to a proposal to establish thousands of nationals of Japan, Germany and Italy in inland farm colonies.[267]

Thus we see that in early February, before he succumbed to the suggestions of the vocal anti-Oriental West Coast political and race conscious bloc, General DeWitt was thinking in terms, not of Japanese alone, but of *all* enemy aliens; and had not arrived at the point of planning any abridgment of citizenship rights.

By February 6, Mayor Fletcher Bowron had been won over to the cause of exclusion, but Governor Olson, according to a special dispatch to the New York Times, "described himself as opposed to mass evacuation of all persons of Japanese ancestry."[268] On February 9, Mr.

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[266] *California Daily News (Kashu Mainichi)*, February 4, 1942.

[267] *New York Times*, February 4, 1942. (Special dispatch of Lawrence Davies from San Francisco, February 3, 1942.)

[268] *New York Times*, February 7, 1942. (Special dispatch of Lawrence Davies from San Francisco, February 6, 1942.)

Olson was still advocating individual treatment for "Japanese in California." Declared the Governor, "It is easy for our people to be overcome with hysteria and to undertake unwise measures to insure our defense. Instead we must try to get the active and voluntary co-operation of the Japanese to avoid regimentation."[269] Governor Olson was in constant touch with General DeWitt during this period. It is therefore apparent that the General had not yet decided upon a "military necessity" demanding mass evacuation.

Meanwhile the signs of a substantial amount of public good-will continued. In Seattle, Washington, on February 9, 1942, the City's No. 1 American Legion Post announced that it would sponsor a boy scout troop composed entirely of American boys of Japanese ancestry.[270] On February 11, 1942, the Los Angeles C. I. O. Industrial Union Council sent a resolution to the County Board of Supervisors protesting the elimination of Japanese-American civil service employees from city and state jobs.[271] On February 20 the *California Daily Bruin*, the newspaper of the Los Angeles branch of the University of California, published a strong editorial castigating Mayor Bowron for his demand that "the Japanese, both alien and American-born, must go."[272]

On February 21, 23, 26, 28, and March 2, 6, 7, 12, 1942, the Select Committee Investigating National Defense Migration of the House of Representatives (Tolan Committee) met in Los Angeles, San Francisco, Portland

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[269] *California Daily News*, February 9, 1942.

[270] *Idem.*

[271] *Los Angeles Japanese Daily News (Rafu Shimpo)*, February 11, 1942.

[272] *Quoted from California Daily News*, February 21, 1942.

and Seattle to hold hearings on the "Problems of evacuation of enemy aliens and others from prohibited military zones."[273] These hearings were originally supposed to shed light on the proper course to take. But since General DeWitt had already requested and received authority to proceed with mass evacuation *before* the hearings began they turned into an uninspired attempt to justify what had already been decided. Yet at these hearings there was still a heartening amount of protest by the best type of people of every West Coast community against discriminatory and mass evacuation.

The representative of the California State Industrial Union Council, for instance, said:

> "We feel, however, that a good deal of this problem has gotten out of hand, Mr. Tolan, inasmuch as both the local and State authorities, instead of becoming bastions of defense of democracy and justice, joined the wolf pack when the cry came out 'Let's get the yellow menace.' . . . I am referring here particularly to the attack against the native-born Japanese, an attack which, as far as we can find out, was whipped up . . . Well, the result is that during this present situation local autthorities simply ran out on the problem . . . frankly, I think the only people who have shown a semblance of decency and honesty and forthrightness in this whole situation are the second-generation Japanese . . ."[274]

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[273] These Hearings were printed in full for the use of the *Select Committee Investigating National Defense Migration, House of Representatives, Seventy-Seventh Congress, Second Session, Pursuant to H. Res. 113* and appear as Parts 29, 30, and 31 of the National Defense Migration Series. United States Government Printing Office, Washington, 1942.

[274] Hearings before the *Select Committee Investigating National Defense Migration* (Tolan Committee), Part 29, San Francisco, Testimony of Louis Goldblatt, February 23, 1942, p. 11179.

Galen M. Fisher, advisor to the Institute of Pacific Relations and Secretary to the Committee on National Security and Fair Play saw no need for mass evacuation based on "protective custody," because, as he stated on behalf of the organizations he represented:

> "All the organs of public influence and information—press, pulpit, school, welfare agencies, radio, and cinema—have discouraged mob violence and have pleaded for tolerance and justice for all law-abiding residents of whatever race. Governor Olson and Attorney-General Biddle have issued proclamations to the same end."[275]

Clarence E. Rust, distinguished attorney of Oakland, California said pointedly:

> "I find no popular demand for the efforts to drive the so-called alien enemies from California. (Chester Rowell has also stated this as his impression.) The clamor seems to come from chambers of commerce, Associated Farmers, and the newspapers notorious as spokesmen for reactionary interests. In view of this fact, effort should be made to determine whether there is any connection between the clamor for the dispossession of the Japanese farmers and the desire of these clamoring interests to get possession of the Japanese farms and the elimination of the Japanese competition.
>
> "I am utterly in opposition to the adoption of a program of hysteria as a national policy. Our country is strong and virile because its citizenship emerged from the fittest survival of the melting pot. We reject the European and Asiatic doctrine of the attainder of blood . . ."[276]

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[275] *Ibid.*, Statement by Galen M. Fisher, February 23, 1942, p. 11200.

[276] *Ibid.*, Exhibit 9. Statement by Clarence E. Rust, February 23, 1942, p. 11254.

Washington's Governor Langlie denied that there was any intense feeling against persons of Japanese ancestry in his State. Instead he gave it as his opinion that "the people of Washington have been rather sane about this thing . . . . there has been very little difficulty. Aliens and Japanese have been treated rather kindly."[277]

On February 28, Mayor Harry P. Cain of Tacoma, Washington could speak out publicly against mass evacuation, he told the Committee:

> "America has always been interested in selection, and I feel it would be preferable to make careful selection of those to be evacuated, rather than just say 'Let's get rid of our problem by the easiest, most obvious way, of moving everybody out.'"[278]

Orville E. Robertson, Executive Secretary of the Family Society of Seattle, spoke for the social work agencies of the area. He asserted:

> "My own opinion is that wholesale evacuation is not necessary nor desirable . . . Unquestionably there are suspicious characters in all groups of our population . . . I think, however, that it is a good deal easier to spot and pick up, if need be, the questionable character in the Japanese group in a location where he is known, . . . than if you scattered them in a large-scale evacuation program."[279]

And Mr. Robertson left a prepared statement with the Committee which emphasized this theme: "Because in America we believe that the individual is important, . . .

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[277] Hearings before the *Select Committee Investigating National Defense Migration* (Tolan Committee), Part 30, Portland and Seattle, Testimony of Governor Arthur B. Langlie, February 28, 1942, p. 11402.

[278] *Ibid*., Testimony of Mayor Harry P. Cain, February 28, 1942, p. 11414.

[279] *Ibid*., Testimony of Orville E. Robertson, February 28, 1942, p. 11488.

we would urge that the problem of evacuation be individualized so far as possible."[280]

The representative of the Seattle Council of Churches, too, protested against the misrepresentation of public sentiment. He said:

> "We do believe that the continued good fellowship, participation between groups here in the city, and continued support of Japanese business, is an indication of the fact that there is much more good will toward the Japanese in the general community than is indicated by many of the reports."[281]

The Seattle Council of Churches also left with the Committee a prepared statement in which it said:

> "The committee is disturbed by the isolation of the question of evacuation to the Japanese, with little or no comment regarding aliens of Germany or Italy. This seems to indicate definite race prejudice on the part of the groups who are most conspicuous for their endorsement of evacuation. We are quite certain that the people at large, regardless of their fears, do not bear the same feeling of race discrimination. The continued patronage of the Japanese people, the friendly demonstrations which have taken place during the last 2 months between Japanese aliens and citizen groups in various churches and other civic organizations, and the absence of disorder and outbreaks are, we think, conclusive proof that public opinion at large is not represented by statements from the protesting groups."[282]

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[280] *Ibid.*, Statement by Orville E. Robertson, February 28, 1942, p. 11485.

[281] *Ibid.*, Testimony of Rev. Harold V. Jensen, March 2, 1942, p. 11568.

[282] *Ibid.*, Statement by the Council of Churches Emergency Committee on Aliens presented by Dr. Harold V. Jensen, March 2, 1942, p. 11564.

A prominent Yakima Valley farmer, a member of the school board of his district for twelve years, submitted this statement:

> "Records show that the Japanese students are very bright and industrious. Almost all Japanese children in the valley finish high school and many attend universities and colleges. There is almost no juvenile delinquency among them. My contact with the Japanese has proved to me that they are good citizens of the United States. They have very good morals; they are hardworking, thrifty, law abiding, anxious to contribute to national and community enterprises and to charitable work . . . I know a good many young Japanese born here, and I know that they feel that this is their country; they have no other; and they wish to do what they can to defend it . . . I think it is a mistake and unnecessary to evacuate the Japanese."[283]

Another witness from this district, a woman who has been an officer of many civic organizations, gave eloquent, similar testimony:

> ". . . I have lived in the Yakima Valley for 17 years. I have come to know the Japanese there very well. I have visited them in their homes. Some of them have been in my home as welcome guests.
>
> "We have in our community a good many Japanese truck farmers—people who came to our land to establish their homes 25 and 35 years ago, whose children were born here and have been educated with our children in our public schools. They have been brilliant students and we have perhaps envied them their capa-

283 *Ibid.*, Statement by Dan McDonald, March 2, 1942, p. 11583.

bilities or their perseverance in developing them. The parents were never permitted to become citizens, and now we call them aliens, but their children are American citizens even as we are. Many of them are in the Army. The parents have given their children willingly and proudly for the service of our country. Those at home want to do whatever they can to best help our country. The funds of the Red Cross in our section have been greatly augmented by the voluntary contributions of the Japanese. They would increase these donations still more if they were allowed to give a benefit dance, but they dare not have group meetings.

"Since the war began our local Japanese have done everything in their power to cooperate with our Government. They have willingly turned in whatever the Government has asked for. Now all they ask is the privilege of getting into their fields and producing as only they can, the crops which this country needs to feed its Army and its civilian population. These people are farmers, they are not saboteurs. If you knew them personally as I do, you would realize that. Since you do not, I can only ask you to use your intelligence. Will a man who is exhausted from long, hard labor in the fields—labor begun at 4 in the morning and continued until dark—will such a man have any energy left for espionage work? No. As I say, these people are farmers; they know it is time to plant their crops—the earth is calling to them, and in spite of the dreadful uncertainty, in spite of the fact that the banks will give them no crop loans as they have in the past, these people are bravely beginning their plantings."[284]

[284] *Ibid.*, Statement by Esther S. Boyd, March 2, 1942, pp. 11583-11584.

An interesting commentary came also from a Chinese patriot and scholar, now associated with the University of Washington:

"I am a citizen of the Republic of China. I was born and brought up there. I was formerly assistant professor at the University of Amoy in South China and now I am teaching at the University of Washington.

"During my travels in Free China between 1939-41, I found that the leaders in Chungking were very farsighted in having adopted the policy of inculcating in the minds of the Chinese masses discrimination between the Japanese warlords and the Japanese people. Since the surprise attack on Pearl Harbor, I have been watching closely the general policy of the Government of the United States toward the Japanese aliens and the American-born Japanese. That was why I went to the public hearings on alien evacuation at the county-city building this morning.

"If the people here are not afraid of the thousands of German and Italian aliens in their midst, there is no reason why they should be afraid of the Japanese now that all the suspicious characters have been interned. As a matter of common sense, the physical traits of the Japanese are more easily identifiable than those of the Germans and the Italians, and, therefore, more effective precautionary measures can be adopted to keep the Japanese from undertaking activities inimical to the interests of this country.

"Of course, the American people out here may be concerned over the possibility of a Japanese invasion on the Pacific coast. But the removal of the Japanese alone will by no means eliminate all the fifth-column activities from this area. Here again a few Germans or Italians, with the advantage of their un-

identifiability, may give greater assistance to the invaders than the entire Japanese population who, under the present circumstances, will find it extremely difficult to gain access to any militarized zone or war plant, and who, in time of emergency, can easily be rounded up at a moment's notice."[285]

The statement of E. W. Thompson is that of a man who ad intimate knowledge of the situation:

"I take the liberty of presenting a few facts because I am one of the pastors of a Japanese church in Seattle (Methodist) and am in daily contact, not only with the young people, who are Americans but with their parents who are technically Japanese. I have genuine contacts with these latter because I have some knowledge of the Japanese language and can talk directly with them.

". . . Those who came 15, 20, 30, or 40 years ago have become strangers to the land of their birth. They have become warmly appreciative of the land of their adoption; they recognize the superiority of our democratic ideals and customs. They have raised their children here. Nearly all of them would be citizens if they were permitted. When some of these have taken trips to Japan, even in peacetimes, they have been under suspicion and strict surveillance in Japan because of their obvious American sympathies and interests. They belong to us.

"In Seattle and vicinity, where I am acquainted, a significantly large proportion of these Japan-born Americans have a major part of their business dealings with their English-speaking neighbors, so that

[285] *Ibid.*, Statement by Cheng-Kun Cheng, March 2, 1942, pp. 11606-11607.

they have built themselves into the economic structure of the city and the State . . .

"Any large-scale removal of these economically well-rooted Japanese-Americans would have a disastrous effect upon them. You can move a family several hundred miles quite easily, but you cannot move a grocery or farm or hotel, much less the business good-will which is its mainstay. These people have struggled for from 15 to 35 years to make themselves a part of the American community. Mass evacuation would destroy the painstaking achievements of these years. Mass evacuation would mean snatching from them what they cannot regain save by another long period of struggle in a new community.

"After checking various wild rumors, I have yet to hear of a single act of sabotage which can be laid to our fellow countrymen of Japanese origin . . .

"And we can count on the efficiency of our Federal Bureau of Investigation to continue to round up such individuals as are subject to suspicion. Strict curfew laws and constant Federal Bureau of Investigation surveillance, if these are necessary, would be far less destructive of economic and community life of Americans and Japanese alike than mass evacuation.

"So it is my earnest hope that you will feel justified in recommending evacuation only in such strictly limited areas as military needs may require."[286]

On March 2 a woman with a command of the Japanese language who had been living and working among the Japanese of Gresham, Oregon, asked the Tolan Committee some incisive questions:

"In Gresham, I find farmers on 67 farms, living there from 20 to 40 years continuously, some of them

[286] *Ibid*, Statement by E. W. Thompson, pp. 11607, 11608, 11609.

on the same farms for almost that length of time. I find one family for 50 years in this locality. They were married 50 years ago here. These are law-abiding, upright people of our community. What is it that makes it necessary for them to evacuate? Have they done anything? Is there anything in their history in this area to justify such a fear of them developing overnight?"[287]

As late as March 6, 1942, the Los Angeles County Chapter of the American Association of Social Workers protested to the Tolan Committee, "We feel that the forced mass evacuation of aliens and citizens on a racial or national group basis would militate against the principles for which our country is waging war against the forces of tyranny and intolerance."[288]

It was not only before the Tolan Committee that protests against mass evacuation were registered by public spirited citizens. On March 2, the Pasadena Committee on Fair Play, which included as members such distinguished persons as Nobel Prize winner Robert A. Millikin, still urged:

". . . that to protect the long-range values involved, we hope that all restrictions on freedom of movement and permits to remain in a given area may be based on considerations of safety to this country and not on the question of political, religious or racial backgrounds."[289]

The Southern California branch of the American Civil Liberties Union reacted, too, against the discriminatory

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[287] *Ibid.*, Testimony of A. E. Peet, p. 11386.

[288] *Ibid.*, Statement by the Executive Committee of the Los Angeles Chapter of the American Association of Social Workers, p. 11872.

[289] *California Daily News*, March 2, 1942.

nature of General DeWitt's first proclamations. "The orders are far too sweeping to meet any proven need and should be modified to provide examinations, with hearings, for all citizens excluded from the designated areas," its chairman asserted.[290]

That famed observer, Louis Fischer, could not find the public animosity against persons of Japanese ancestry which pressure groups claimed existed. On March 7, 1942, he published an article in which he described a West Coast journey he had just concluded:

> "In Seattle I saw a girl's school going on an excursion, and smiling Japanese children were walking hand-in-hand and arm-in-arm with American children. Teachers and superintendents in liberal Pasadena and Seattle told me that the Japanese students were often brilliant and always loyal. Numerous housewives told me they trust their Japanese servants. The public is not showing hate or spite. But the reactionary press and the politicians are out for blood and wholesale internment. Jingoes are endeavoring, under the cover of war-time flag-waving patriotism, to do what they always wanted to do in peace time: get rid of the Japanese . . . ."[291]

On March 11, the *Christian Century*, in an editorial titled "Hitlerism Threatens the California Japanese," pleaded that there should not be:

> "(1) action based on unproved rumor; (2) action which flouts the constitutional rights of the large number of second-generation Japanese who are United States citizens; (3) action whose real end is the

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[290] *California Daily News*, March 5, 1942.

[291] Louis Fischer, "West Coast Perspective," *The Nation*, March 7, 1942, pp. 267-77.

destruction of Japanese competitors of American firms; (4) action which is nothing of frustration at the way the war is going."[292]

By March 19 the Tolan Committee had scanned its hearings and issued its first report.[293] In it it had to admit that during the earliest stages of the war, when the United States and the coast appeared most vulnerable, there was no call for evacuation:

> "For at least a month there after (after the outbreak of war), however, the temper of the American people remained relatively calm toward these groups in their midst.
>
> "Meanwhile the Federal Bureau of Investigation was active in rounding up those enemy aliens (German, Italian, and Japanese) considered most immediately dangerous. These raids were made with the aid of information supplied by the military and naval intelligence services, and often with the collaboration of local police officials. Editorial comment praised these preventive measures, and there appeared no widespread demand for wholesale evacuation."[293]

Every informed source agrees that whatever public ill-will eventually arose was late in manifesting itself and was artificially stimulated. Charles Inglehart, who was in close touch with the situation during this period, wrote on June 6, 1942:

> "This action has since been defended on the ground that the Japanese themselves were in danger. I talked with a good many people of all sorts and found no

[292] "Hitlerism Threatens the California Japanese," *Christian Century*, March 11, 1942, p. 309.

[293] *Tolan Committee Report* of March, 1942, p. 2.

evidence of any serious danger. Nor could I discover a single case of subversive activity, though the air was filled with unsubstantiated rumors. A minority group always has a grapevine which carries news with uncanny speed and accuracy, but no Japanese whom I met had heard of more than three instances of violence resulting in death, and all of these were said to have been the work of Filipinos.

"I cannot escape the conclusion that even as a war measure evacuation was unnecessary. The slumbering embers of public antagonism to this alien group were, it appears, deliberately fanned by interested persons and organizations until a conflagration was threatened, but at any time it could have been quenched if the authorities had shown the proper firmness."[294]

Even after evacuation orders were an ugly reality and those minuscule minds who always seek to foster some popular crusade against a minority had begun their chorus of hate, the very best elements of the West Coast communities continued to show their friendship for their neighbors of Japanese ancestry. Galen Fisher describes some of this activity:

"Local committees arranged to store belongings for the duration; they formed in Los Angeles a corporation to administer properties; in Berkeley, they ran a sale of art works by a Japanese professor, the proceeds to be given to establish a scholarship in the University of California for worthy students who had suffered from the war; they set up a clinic staffed by Japanese doctors and nurses to give anti-typhoid inoculations lest mothers with children be prostrated

[294]Charles Iglehart, "Citizens Behind Barbed Wire," *The Nation*, June 6, 1942, p. 649.

if they had to undergo two other injections upon arrival at a Center. These friendly efforts came to a climax during the last days of registration and departure. Beginning with the First Congregational Church of Berkeley, church plants were offered to the Army as evacuation stations. Groups of church women were on hand to provide a creche for the children of mothers while they registered, to taxi registrants from home to station, to talk with those who were waiting, and to serve tea and sandwiches, or even a tasty breakfast the day they left.

"When the big buses or the long trains filled with outwardly smiling faces rolled off for the Assembly Centers, they were bidden au revoir by loyal friends from the churches and schools, or by fellow students, as at Pomona College."[295]

An episode mentioned in Mr. Fisher's account is given greater detail in the newspaper of the town in which occurred:

"So popular that the entire student body turned out with the band to see her off when the evacuation order came, Miss Hisanaga has two brothers, Sergeant Bennie Hisanaga, former football captain at Pomona, and Kazuma Hisanaga, in the United States Army."[296]

One young man of Japanese ancestry thought that he d his fellow victims were being accorded the best treatnt of any evacuees on the coast, for he wrote:

"During this hour of uncertainty when trouble seems to embroil all of us, the Japanese of Santa

[295]Galen M. Fisher, "The Drama of Japanese Evacuation," in *A Touchne of Democracy*, published by the Council for Social Action of the ngregational Christian Churches, New York City, October, 1942, p. 18.

[296]*Claremont Courier*, February 26, 1943.

Barbara are proud to say that we have many Americans in our community that have been more friendly to us than at any time in the past.

"Instead of trying to make moves to have us all removed immediately, many have come to us and offered their sincerest sympathy. Personally, all of us in Santa Barbara think we have had finer treatment from our American friends than in any other city."[297]

But identical attitudes were being expressed elsewhere, as this excerpt indicates:

"A school teacher in Pasadena, who had a large number of Japanese children in her school, writes: 'Last week our Japanese all left. Most of them went to Tulare. Their trains were parked just a few blocks from our school, so I went over one morning to see them leave and say good-bye. Most of the women and girls had been crying, but they were smiling and self-controlled. It was all very sad. So many personal tragedies are tied up with these national necessities. Different church groups and friends served coffee and milk and sandwiches, and everyone was friendly and kind. One Japanese lady said to me: 'Oh, I think the people of Pasadena are the best people on earth. We shall always remember their kindness during these sad months.' How we miss the little Japanese children at school. They all brought us bouquets and gifts of thanks from their parents.' "[298]

The pathetic attempt of organized Caucasian groups to preserve human values and amenities continued all through

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[297] *Los Angeles Japanese Daily News*, March 28, 1942

the Assembly Center period. On April 2, 1942, the Methodists of Bakersfield, sent this letter to the Wartime Civilian Control Administration:

> "Representing the First Methodist and Trinity Methodist churches of Bakersfield we have no hesitancy in placing this matter of greatest importance before you.
>
> "When evacuation of the Japanese is effected, we request that our Methodist Japanese church representing more than twenty families, be moved as a unit.
>
> "For many years the Methodist church has worked for the development of Christian character and good citizenship among the Japanese families of this community. The values created in this fellowship may be conserved, we are sure, if this Christian group may be resettled together."[299]

The artificiality and lack of genuine public interest in a mass evacuation of persons of Japanese ancestry is demonstrated by an incident which occurred in early July Many evacuees were then at temporary Assembly points, awaiting removal to inland Relocation Centers. Those being held in Fresno and Tulare counties of California were scheduled to leave July 15. The agricultural interests of these districts, particularly the fruit and vegetable growers of the San Joaquin Valley brought pressure on Governor Olson to request that the evacuation be halted to permit the "Japanese to help in the harvest." A critical farm labor shortage had developed and the growers had re-discovered that "the overwhelming majority of Japanese farm workers are as loyal as you and I, and the best farm workers you can get."[300] On July 3, 1942, Gov-

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[299] *Los Angeles Japanese Daily News*, April 2, 1942.

ernor Olson spoke over a state-wide radio chain and announced that he would ask for a delay in evacuation to permit the use of the labor supply.[301] On July 6 the Governor advised the press that he would carry his request to General DeWitt and War Relocation Authority heads.[302] On July 8 Mr. Olson had to report that General DeWitt had vetoed his proposal. The General had responded that the Governor's request "would require an entire change of program which had been adopted as a military necessity."[303] This was, incidentally a full month after the battle of Midway had eliminated any direct threat to the West Coast.

We have gone into some detail to refute the smug, hyprocritical and dangerous doctrine of protective custody particlarly because we are certain that it is evacuation which breeds violence and disorder and which will continue to do so as long as it is upheld. The Americans of Japanese ancestry knew where they were safest. One of them, when a member of the Tolan Committee began to talk in terms of safety, answered:

> "I was born in Alameda County some 33 years ago. I went to grammar school in Alameda County; I went to high school in Los Angeles County, and graduated at college here. By and large I would rather depend upon my friends here, upon the people I have known for 30 years, rather than to risk evacuation . . . Personally I don't fear for my safety here among Californians who know us, who have seen many Japanese and who would not fee

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[301] *Los Angeles Times*, July 3, 1942.

[302] *New York Times*, July 7, 1942. (Special dispatch from San Francisco, July 6.) *Los Angeles Times*, July 7, 1942.

[303] *New York Times*, July 9, 1942; *Los Angeles Times*, July 9, 1942; *Los Angeles Daily News*, July 9, 1942.

> that an imperial army representative arrived every time they saw a strange face. I also feel that the average human being in Los Angeles County is to be depended upon. I haven't lost entire faith in the human beings here . . . .[304]

Statistics bear out this young man's conviction that his person was in no immediate danger. In the year 1941, which included the three weeks which followed the Pearl Harbor attack, no person of Japanese ancestry died by homicide.[305] It was the suicide rate that rose during this year from the 1940 total.[306] In the entire calendar year 1942 (and persons of Japanese ancestry were at their usual addresses on the West Coast for an average of half of this year) no person of Japanese ancestry died by homicide in the States of Oregon, Washington or Arizona.[307] A total of seven deaths by homicide are registered for California.[308] But most of these were the result, not of a delay in evacuation, but *of the fact of evacuation.* At the Manzanar Relocation Center in California, for instance, on December 6, 1942, two evacuees, one a school-boy eighteen years of age, were slain in a disturbance growing from the bitterness and frustration of evacuation and confinement, under guard, behind barbed wire.

To brand people undesirable and dangerous in one locality is to invite suspicion and hostility against them when they move to another. When an acknowledged liberal

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[304] *Hearings before the Select Committee Investigating National Defense Migration* (Tolan Committee), p. 11708.

[305] *Wartime Civil Control Administration Bulletin 12*, March 15, 1943, p. 154.

[306] *Idem.*

[307] *Wartime Civil Control Administration Bulletin 12*, p. 153.

[308] *Idem.*

such as Mayor La Guardia of New York declares that people who have had to be banished from some other area should not be allowed to enter the City which he governs, the interpretation placed upon evacuation by the uneducated and the unthinking can well be imagined.[309] And to dispossess a people, to allow their homes, their farms, their businesses and their equipment to fall into other hands at terms dictated by panic, is to create vested interests determined to prevent their return and dedicated to turning public temper against them to the point of violence.[310] The relocation centers are regularly termed "prison camps" or "internment camps" by politicians and by dealers in national division. If this continues, and unless evacuation is successfully challenged in the Courts, it will be an almost hopeless task to rehabilitate evacuees in their own eyes and in the eyes of the American people.

To summarize, there was a tremendous fund of good will and determination to avoid excesses and un-American procedures at the beginning of the war. Much of it was evident on the West Coast, and it came from a large and important section of the population. This spirit of fair play, instead of being fostered and nourished was ignored, discouraged and squandered by General DeWitt and the politicians by whom he was influenced. Unhappily these men yielded to an odious doctrine of needless protective custody which has left a train of unconstitutional edicts, violence and threats of future violence.

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[309] *New York Times*, April 27, 1944.

[310] For some instances of suicide, property damage, physical violence, and threats of physical violence directly traceable to evacuation see the *Christian Century*, April 26, 1944, p. 516; *The Salt Lake Tribune*, Oct. 7, 1943; *The Salt Lake Telegram*, Oct. 6, 1943; *Pacific Citizen*, June 18, July 16, Sept. 4, Oct. 22, Nov. 19, Dec. 3, Dec. 31, 1942; Feb. 4, April 15, July 31, Oct. 9, Nov. 27, Dec. 18, 1943; June 3, Aug. 12, 1944.

11. Contrary to Unsubstantiated Assumptions and Assertions, Americans of Japanese Ancestry Are Well Assimilated and Loyal. Abundant and Reliable Information Was on Hand to Prove This at the Time of Evacuation.

Since Americans of Japanese ancestry have been treated differently from all other citizens, those who favor this discriminatory treatment and those who uphold it are logically forced to assert or to assume that these young people are in fact different from all other elements of our population. And since variations of race or physical type are not legitimate grounds for discriminatory treatment under our Constitution, they must argue that the differences are social or cultural as well as biological. The racists and divisionists among us do not hesitate to use this argument. They are eager to convince the country that those who are physically distinct from the majority are also separate in customs and mentality, and therefore should be barred from coming to our shores or eliminated if they are already here. But it is a dark day for liberty when this doctrine of vast social and psychological gulfs between groups in our population becomes dignified and implemented by favorable mention in the decisions of this Court. Persecution has become so common in our day and the rationalizations for persecution so specious that the grounds on the basis of which discrimination against any group of citizens is urged should be weighted on the most sensitive scales of justice that free men can devise. If this Court upholds discriminatory treatment of certain citizens on the basis of "ethnic affiliations" with an enemy of our country, its thrice solemn responsibility is to ascertain that so serious a contention is actually true and is not asserted merely because it is the only legally support-

able assumption that will excuse what was done in haste and folly.

The credo of democracy is that men of all races, colors and faiths can be molded to common ideals and a common national devotion by the institutions which they inherit and share. The alacrity with which a General, some politicians and some Judges are ready, in spite of a rich store of reassuring evidence, to abandon this conception for the assumption that our young people are motivated, not by the social dynamics and values of America, not by her schools, churches, and athletic fields, but by considerations of race or dim parental memories of a distant land, is grim and disillusioning indeed.

Every argument for evacuation expresses or implies the conviction that Americans of Japanese ancestry are not assimilated into American life and therefore could not be expected to be as loyal and devoted as other elements of the population. Those who advance these arguments ordinarily know very little about culture, about assimilation, or about Americans of Japanese ancestry. They always confuse the concept of "intermingling," with the concept of "assimilation." The Negroes of Harlem participate in American culture. Certainly they have no knowledge of the African tribal life of their remote ancestors. They listen to, dance to, and create American music. They eat American-type foods. They speak English. In all important aspects of behavior they conform closely to common American standards. Yet they dwell by themselves in a special section of the city. In the same way, because of property restrictions, persons of Japanese ancestry often lived together in certain sections of West Coast cities. But this is no more reason than it is in the case of the Negro to assume that they were not there con-

forming to genuine American habits of thought and action. After all they were attending the same kind of American schools, they were listening to the same radio programs, they were singing the same popular tunes, and were using the same slang as were boys and girls who lived elsewhere. The 100th battalion and the 442nd battalion are formed almost entirely of Americans of Japanese ancestry. But this does not prevent them from facing America's enemies; wearing American uniforms, using American weapons and tactics, fighting America's fight and shedding American blood. The unrestricted intermingling of races and peoples may be an ideal in itself, but it is by no means necessary for assimilation. We protest against the narrow and superficial assumption which we find in every statement of General DeWitt and every brief of the Government on this subject, namely, that because people of Japanese ancestry lived together, they must have been carrying on mysterious and un-American customs of oriental origin.

In extenuation of his orders General DeWitt has called the persons whom he banished, most of them American citizens, "a large, unassimilated, tightly knit racial group, bound to an enemy nation by strong ties of race, culture, custom and religion."[311] This theme he repeats over and over. In another place he says, "Because of the ties of race, the intense feeling of filial piety and the strong bonds of common tradition, culture and customs, this population presented a tightly-knit racial group." (*Final Report*: page 9.) Further on he returns to this refrain to state, "In his estimate of the situation, then, the Commanding General found a tightly-knit, unassimilated racial group, . . ." (*Final Report*: page 17.).

[311] *Final Report* of General DeWitt, p. vii.

General DeWitt is the author, or at least the popularizer of the most un-American slogan used in the United States during the present conflict, "A Jap's a Jap."[312] We know his opinion of Americans of Japanese ancestry. But what do those who are somewhat more qualified by training and contacts to speak on this subject, have to say? It is impossible to reconcile General DeWitt's dicta with this statement of Monroe E. Deutsch, Vice-President and Provost of the University of California:

> "As one who has lived almost all his life in California and has seen a great deal of the Japanese population, I feel able to express a considered judgment on them. I have never had occasion to doubt the loyalty of any of those with whom I have been in contact; I have found them hard working, devoted and law-abiding. On the Berkeley campus of the University of California we have had some four hundred American-Japanese; they have acquitted themselves well, not only in their studies, but in their conduct, also. It has been a joy to me to see how in the days preceding the war these students were accepted more and more as part of the student life on the campus."[313]

The General's view also seems to be diametrically opposed to that of so experienced and trustworthy a guide as Bishop Baker, who has written:

> "I have known intimately many Japanese-American citizens. I am proud of them as *fellow-citizens* and should count it a privilege to have them as my neigh-

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[312] "General DeWitt Reveals His Prejudice", (editorial), *Christian Century*, May 5, 1943, p. 532.

[313] Monroe E. Deutsch, letter of September 12, 1942, reprinted in the *Pacific Citizen*, November 19, 1942.

bors. They are persons of character and are devoted to the ideals of American democracy."[314]

In December, after the start of the conflict, Governor Olson saw no lack of loyalty or assimilation to disturb him, even among the aliens:

> "I have every confidence that the F.B.I. and other agencies are fully capable of handling the problems presented by the presence of disloyal persons, whether they be Japanese or Germans or Italians.
>
> "They have been watching these persons a long time; therefore they were ready to act promptly and effectively in the first few days of hostilities.
>
> "I am reminding the citizens of California that the vast majority of Japanese in California are native born American citizens and completely loyal to the government of the United States; also, that the non-citizen Japanese, for the most part, are likewise loyal and anxious to serve our country, although they themselves are not eligible for citizenship."[315]

Dr. Floyd Schmoe of the University of Washington, on the basis of rather substantial evidence, argues that the citizens were entering business and successfully into every aspect of American life and work:

> "Because they work hard and are serious they make good grades. Year in and year out a much larger percentage of the valedictorians and salutatorians of West Coast high schools are *nisei* students than the total percentage of such students would ever indicate. Many also are leader in student affairs, athletics, and other extracurricular activities.

[314] James Chamberlain Baker, Bishop of the Methodist Church of California, letter reprinted in the *Pacific Citizen*, Nov. 19, 1942.

[315] *Pacific Citizen*, January, 1942.

Since December 7th a *nisei* student was elected president of the student body of an Oregon high school. Last year in a Seattle high school a *nisei* girl held elective offices in seven different school organizations.

"At institutions of higher learning Japanese American students are equally quick to take advantage of the opportunities offered them. Although they come from an economic level appreciably lower than that of the white American students, a much higher percentage of them attend the universities and colleges. At the University of Washington in Seattle, where some eight thousand students are enrolled from a community of approximately half a million people, there are nearly four hundred *nisei* students from a Japanese community of about ten thousand—a ratio of three to one.

"Until recently more than one thousand held state civil service appointments. Capable Japanese lawyers, doctors, dentists, and optometrists are practicing in some twenty-five cities of the Pacific area. Every large educational institution on the West Coast and in Hawaii had Japanese professors and scientists on its staff. A few were employed by the Federal Government, and many were trusted executives of banks, transportation companies, and commercial firms. In Hawaii five members of the Territorial Legislature were Hawaiian Japanese."[316]

In the testimony before the Tolan Committee of Seattle's Mayor Earl Millikin; the DeWitt charges of poor citizenship are strangely absent:

"In the main, the American-born Japanese, and even the aliens, are fine, good citizens—hard work-

[316]Floyd W. Schmoe, "Japanese Americans and the Present Crisis,"

ing. They contribute nothing to our juvenile delinquency; they are out of our courts almost entirely; they are very fine citizenry. It is just a situation developed by Japan herself. . . ."[317]

A frank citizen who has had considerable experience with children of Japanese ancestry gives information which directly controverts the assertions of General DeWitt, moreover.

. "Now, as to these Japanese, I have had pretty close contact with them for the past 30 years, and I consider that they are loyal. If I and my son have to go across the water to fight—he is in his teens—I am not afraid of those boys failing to produce back on the soil, at the home place. As to students in our schools—I have been on the school board for years and have handled boys and worked in the Boy Scout group, and the Japanese boys in the Scout group have been excellent citizens. The girls and boys in the school have ranked above my child and most of her race, so far as scholarships went. I think that it would be safe to say that 75 percent on the honor roll are Japanese. Morally, the Japanese children rank—even outrank our white children. We have around 925 or something like that, in our valley, and the big share of them there are farmers."[318]

If the Americans of Japanese ancestry were as isolated and unassimilated as General DeWitt alleges, their Caucasian friends and class-mates were curiously unaware

[317] *Hearings before the Select Committee Investigating National Defense Migration* (Tolan Committee), p. 11405.

of it, as this eloquent statement of a University of Washington student representative attests:

> "I wish to testify to this committee in an unofficial capacity and merely as an individual student speaking for an informal group of students who feel that Japanese students should be allowed to continue their studies at the University of Washington and not be evacuated from the area. There are over 250 Japanese-Americans, 70 of them girls, who are at present studying at the university so as to prepare themselves to become useful American citizens. I know many of these students personally, am pleased to count some of them as my intimate friends, have gone to school with them, studied with them, participated in student activities with them, gone to the same parties, and visited their homes and so I feel at least partially qualified to speak in their behalf.
>
> "What are the Nisei students like? I am convinced that the majority of university students will agree with me when I say that the answer can be given in just one word—American. Aside from superficial differences of skin color, you would be unable to tell them from the average American college student. They dress the same, talk the same, and most importantly they think and believe the same. . . . " [319]

Another student, a young woman, gave similar convincing testimony:

> ". . . It has been said that these people are as dangerous to our country as if they had grown up in Japan. I do not believe this to be true, for they have learned our way of life and have grown up

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[319] *Ibid.*, p. 11590.

thinking of America as their country. They have learned our mores, often teaching their parents our traditions and customs. Even those who have visited Japan, just as many of us have visited the homes of our ancestors in England or Norway, have returned saying they could not agree with the Japanese philosophy of life, and were proud that America was their country.

"These students who have grown up loving America, unless ruthlessly treated, so that their ideals and faiths are considerably shaken, are not likely to change a life-time philosophy in the course of a few months. They are the first generation of Japanese-Americans born in this area, and the first really to learn our customs and language. They have learned more in school than book knowledge; they have learned the American way of doing things, and have taken it back to their parents. This assimilation process has been taking place for 20 years, and the new generation—the third-generation Japanese-Americans—is just beginning in the Seattle area. Must we spoil that long process now by prejudice and isolation?"[320]

The evidence introduced by an official of the University of Washington is shockingly at variance with the sweeping charges of General DeWitt:

"The second generation Japanese have made a good adjustment to the educational institutions in this area. At the University of Washington alone there are over 400 students from this group, and there are some 20 Nisei in the employ of the uni-

[320] *Ibid.*, p. 11591.

versity. One, a veteran of the first World War, is an assistant professor; another is an instructor in nursing; one each are associates in Far Eastern studies and sociology; five others are teaching fellows; and the rest hold research and clerical positions. Students of Japanese ancestry hold offices in student organizations, and represent the university in athletic and nonathletic competition.

"This opportunity to participate fully in campus life has resulted in the development of close ties between students of Japanese parentage and other undergraduates. When the Seattle public schools recently considered accepting the resignations of their Nisei employees, over a thousand university students of white parentage petitioned the board on behalf of the Americans of Japanese ancestry.

"So integrated are many of the campus Nisei that they refuse to celebrate the Japanese victories over China, and in a few cases American-Japanese even joined the boycott against shipping war supplies to Japan 2 years ago. . . .

"Objective standards for measuring loyalty are virtually impossible to set up. However, there are a number of overt reactions of the Nisei at the University of Washington which can be recorded. As the official in charge of recommending draft deferment in the college of arts and sciences, I have had the opportunity to interview hundreds of men regarding Selective Service. Last spring (before Pearl Harbor) I had noticed that practically none of the Americans of Japanese ancestry asked either for deferment or 'special' jobs. After the treacherous attack on Hawaii, over a dozen Nisei called in my office to find out how to volunteer to fight for the United States. In checking over the recent members

of the Japanese Students Club, I find 83 who have either volunteered or are serving under Selective Service in the American Army."[321]

Many more statements of prominent and informed Caucasians attesting to the achievements, the Americanism, the loyalty and the assimilation of citizens of Japanese ancestry could be introduced, but perhaps a sufficient number have been presented to establish that every trained, competent and impartial witness directly challenges the basic assumption upon which the General ordered evacuation.

If assimilation means anything it connotes participating in and contributing to the intellectual, artistic and recreational life of the society of which one is a part. And when a person's achievements and contributions along these lines are recognized and rewarded, despite the fact that he is of a minority group and is distinct in a physical sense, assimilation can be said to be complete. Let us apply this standard to Americans of Japanese ancestry whom General DeWitt decided to evacuate because he considered them to be unassimilated.

In February, 1942, *after* the beginning of the war, four nisei girls were elected to offices in the honor-scholarship society of a large Los Angeles high school. One of them was named the school's representative to the city's second annual Youth Conference.[322] In March, 1942, two nisei girls who were attending Hollywood High School not only received recognition for outstanding

[321] *Ibid.*, pp. 11598-11599.

[322] *California Daily News*, February 26, 1942.

scholarship but were elected to the school's Citizenship Honorary Society.[323] Perhaps this is the answer of the young people of Hollywood, California to the absurdities of General DeWitt and his kind. Two young people of Japanese ancestry also received scholarship recognition at the Los Angeles City College.[324] In May the person who had been voted the most distinguished student in the 1942 graduating class and who had been awarded the University Medal for highest scholastic standing, Harvey Itano, was not at the University of California Graduation exercises.[325] General DeWitt, who looks in strange places for the enemies of this nation, had discovered him to be unassimilated and to be a member of a "close-knit racial group" and had ordered him from the area! In June, 1942, a nisei boy was nominated for the office of president of the student body at Lincoln Junior High School in Salt Lake City. Though he seemed assured of election he withdrew from the contest.[326] Honors and awards earned by 22 nisei students were announced at the University of Washington in June. Of these four were Phi Beta Kappa memberships and two were memberships in Sigma Xi.[327] Many other high school and college students of Japanese ancestry were honored by election to class offices, and by awards at this time.[328] At Tacoma, Washington in late June, the Berkeley episode was repeated. When nearly 700 students graduated from

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[323] *Ibid*, March 18, 1942.

[324] *Los Angeles Japanese Daily News*, March 30, 1942.

[325] *Los Angeles Times*, May 14, 1942; *Pacific Citizen*, July 9, 1942.

[326] *Pacific Citizen*, June 4, 1942.

[327] *Ibid*.

the Lincoln High School the prize for highest scholarship had to be awarded in absentia. The recipient, whom General DeWitt had singled out for attention according to other criteria, was behind barbed wire and under armed guard.[329]

In 1943 and 1944 citizens of Japanese ancestry, driven from California schools by General DeWitt's decrees, began to find havens in colleges elsewhere. It did not take the vital and observant young people of this country long to appraise the newcomers and to thoroughly discredit the General's judgment.

Kenji Okuda was soon elected president of the student council at Oberlin College in Ohio.[330] Paul Tani was elected president of his class at Heidelberg College.[331] William Marutani, Masamori Kojima and Thomas Hayashi were honored by class presidencies at South Dakota Wesleyan, Haverford and Bard College respectively.[332] At South Dakota Wesleyan, too, Oliver Takaichi came out best in a selection based on scholarship, personality and participation in school activities.[333] Girls have been honored with class offices as well. For example, Naomi Nakano was chosen vice-president of the graduating class of the University of Pennsylvania.[334] At least fourteen other nisei have been elected class officers in colleges over the country. And the recognition is by no means limited

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[329] *Ibid.*, June 25, 1942.

[330] *Time Magazine*, June 21, 1943; pp. 46; *Pacific Citizen*, April 1, 1942.

[331] *Pacific Citizen*, October 16, 1943.

[332] Information from circulars and letters of the National Student Relocation Council, 1201 Chestnut Street, Philadelphia, Penn.

[333] *Pacific Citizen*, July 15, 1944.

to political office. At Baylor University in Texas Miss Toyoko Hayashi was voted "Most Popular Girl" and Queen of the Junior Prom.[335] The list of fellowships, scholarships and other honors, many of them elective, which have come in war-time America to these strange representatives of a "close-knit racial group" is a long one and has only been suggested by what has been given.[336]

The contributions of persons of Japanese ancestry to the graphic and fine arts brought some embarrassing moments at evacuation time. The winner of Seattle's annual traffic safety poster contest won a cash reward and a set of encyclopedia for his school. But he no longer could attend the school and the cash award had to be delivered to him at an assembly center.[337] At the very time that the famous sculptor and onetime Guggenheim Fellow, Isamu Noguchi, was evacuated to Poston, his work was being placed on exhibit at the San Francisco Museum.[338] The work of Chiura Obata, noted artist and long a faculty member of the University of California was on exhibit at Mills College in Oakland in July of 1942. This American artist, however, was in detention.[339] In the spring of 1943 the watercolors of Henry Fukuhara were receiving favorable notice at an exhibition at the Otis Art Institute in Los Angeles. The artist, however, was confined in the Manzanar Relocation Center.[340] Other

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[335]Information from circular of the National Student Relocation Council.

[336]*St. Louis Post Dispatch*, Dec. 2, 1943; *Pacific Citizen*, Mar. 11, May 6, June 3, June 17, Oct. 2, Oct. 9, Nov. 13, 1943; April 22, May 6, May 13, May 20, May 27, June 3, June 10, June 17, July 8, July 15, Sept. 2, 1944.

[337]*Pacific Citizen*, June 4, 1942.

[338]*Interpreter Releases*, Vol. IX, No. 35, July 16, 1942.

painters of Japanese descent, most of them American citizens, who have been and continue to be a vital force in the art of this country are Mitsu Iwamatsu, Teru Masumoto, Chuzo Tomotsu, Taro Yashima, Robert Kuwahara, Sueo Serisawa, Kenneth Nishi, Henry Sugimoto, Shizu Matsuda, and, best known of all, Yasuo Kuniyoshi.[341] Many of these artists have been violently anti-Fascist. Kuniyoshi broadcasts to Japan and paints anti-Axis posters for our government. The proceeds of an exhibit of his work went to United China Relief.[342] Chuzo Tamotsu was selling paintings for the relief of the free Chinese long before Pearl Harbor.[343] Kenneth Nishi, who was evacuated from California, is now a Corporal in the United States army as well as a promising young American artist.[344] Of such as these does General DeWitt's unassimiliated group consist!

In the field of music there is Lewis Izumi who was a piano soloist with the Los Angeles Philharmonic Orchestra at the age of seven and who now, at the age of eleven, has been awarded a Curtis Institute scholarship. His older brother, John, incidentally, is serving with the United States army.[345] Kay Sadanaga of the San Francisco Conservatory of Music has won several music competitions on the West Coast. General DeWitt decided that she could play there no more. But that did not prevent her from winning a piano scholarship at the Juilliard

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[341] *Ibid.*, Sept. 3, 1942; Feb. 19, 1944.

[342] *Ibid.*, November 5, 1942.

[343] *Ibid.*, April 1, 1944.

[344] *Ibid.*, November 27, 1943.

School of Music in New York City.[346] Teruko Akagi has received a scholarship to attend the Oberlin Conservatory of Music, and Mari Taniguchi, nisei soprano, was recently granted the artist's diploma, highest award of the Eastman School of Music.[347]

Even the dance and ballet have their nisei representatives. Yuriko Amemiya, who has appeared with the Martha Graham dance company, received a scholarship to attend the dance school at Bennington College in Vermont.[348] Sono Osato, who is part Japanese and would therefore have been evacuated by General DeWitt, has taken the country by storm.[349] Dorothy Maruki, whose study of the ballet in San Francisco and Sacramento was interrupted by General DeWitt's blanket orders, has lately been awarded a ballet dancing scholarship from the Metropolitan Opera Company of New York.[350]

Athletics is an important aspect of American life and we find that Americans of Japanese ancestry have made a place for themselves in this field, too. We have only to mention the names of Chet Maeda,[351] Colorado State football player who was mentioned for all-American honors; Peter Mitsuo Ida,[352] the former Stanford track star; Kenneth Furuya who ranks high among the nation's golf players;[353] Kiyoshi Nakama, captain of the Ohio

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[346] *Pacific Citizen*, October 9, 1943.

[347] *Ibid.*, Nov. 13, 1943; June 10, 1944.

[348] *Ibid.*, April 8, 1944.

[349] *Look Magazine*, Aug. 8, 1944; *P.M.*, Dec. 5, 1943.

[350] *Pacific Citizen*, May 27, 1944.

[351] *Ibid.*, April 8, 1943.

[352] *Ibid.*, May 27, 1944.

[353] *Ibid.*, July 30, 1942.

State University swimming team who broke the world's record for the one-mile swim in August, 1942, and was named on the 1942 all-American swimming team;[354-355] Joseph Nagata, Salt Lake University football star who is credited with leading his team to victory over Fordham;[356] Harry Osaki who was co-captain of Washington State's intercollegiate championship archery team, badminton champion of the college and ranking tennis and golf player when he was evacuated, and who followed his brother into the United States army as soon as he was permitted to volunteer (his two sisters volunteered for the WACs);[357] William Kajikawa who was a star athlete and later a coach at State Teachers College, Tempe, Arizona, and who is now in the army;[358] Watson Misaka who starred on the University of Utah basketball team which this year won the National Collegiate Athletic Association basketball championship;[359] Jack Yoshihara, University of Utah halfback;[360] Jim Yagi, who plays in the backfield of the same eleven,[361] and Jim Nagata who calls the signals for the Louisiana State football team.[362]

Boxing, too, has its nisei performers. Richard Miyagawa, who was forced to leave San Jose State College by evacuation, was unanimously chosen captain of the 1944

[354-355] *Ibid.*, Aug 13, Dec. 17, 1942.

[356] *Ibid.*, November 19, 1942.

[357] *Ibid.*, March 25, 1943.

[358] *Ibid.*, July 31, 1943.

[359] *Ibid.*, April 1, April 8, 1944.

[360] *Ibid.*, October 16, 1943.

[361] *Idem.*

[362] *Idem.*

University of Wisconsin boxing team by his teammates.[363] Two nisei, one a soldier in training at Fort Sheridan, Illinois, were finalists for the 118 pound championship in the Chicago Golden Glove tournament last February.[364] The best-known nisei boxer, a man who turned professional and lost a close decision to the world's featherweight champion, is probably dead. He was Henry Nakamura, who volunteered for the army in 1941 and now has been reported missing in action.[365]

Americans of Japanese ancestry have scored brilliantly in the field of science, too. Dr. Eben T. Takamine, the son of the scientist who discovered adrenalin, is working on a new process for the production of penicillin.[366] His work is considered by authorities to be particularly vital to the war effort. Another nisei, Dr. Henry Tsuchiya, is credited with a part in the discovery of a new bacteria-killer, a substance allied to penicillin.[367] With other scientists he ran hundreds of experiments in the laboratories of the University of Minnesota to make this significant advance. Then there is Dr. William N. Takahashi who had to relinquish a teaching position at the University of California to accommodate General DeWitt's racial phobia. He has been awarded a Guggenheim Fellowship for the study of virus reproduction and is now carrying on his important studies at Cornell University. It is no wonder that Joseph C. Grew has called Americans of Japanese ancestry, "an invaluable element in our popula-

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[363] *Pacific Citizen*, April 8, 1944.

[364] *Ibid.*, Feb. 26, April 1, 1944.

[365] *Ibid.*, April 1, 1944.

[366] *Ibid.*, October 2, 1943.

[367] *Ibid.*, May 27, 1944.

tion" and praised "the contributions of loyal Americans of Japanese ancestry."[368]

To detail the evidences of loyalty and patriotism of Americans of Japanese ancestry before and after Pearl Harbor would be an almost endless task. Before Pearl Harbor persons of Japanese ancestry pledged their help in any crisis, increased their food production if they were farmers, bought defense bonds, cheerfully answered each selective service call, and supported to the fullest extent the Red Cross, the U. S. O. and all other drives and measures related to national defense.[369] After Pearl Harbor they condemned Japan's action in the most scathing terms and matched their words by volunteering for the army, and by gathering funds to buy bombers, anti-aircraft guns and Red Cross ambulances for the United States forces.[370] They acted as blood donors and increased their contributions to all wartime appeals.[371] They pledged themselves to prevent and to report any subversive activity within the Japanese community.[372] The women busied themselves with knitting and with other services for the Red Cross, and the children salvaged scrap iron and old paper.[373] Anti-fascist forces among the nisei,

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[368]*Ibid.*, April 29, 1943; April 15, 1944; *Christian Century*, Letter to the Editor from J. W. Buckham of Berkeley, California, May 3, 1944, p. 505.

[369]*Congressional Record*, Appendix, Nov. 28, 1941; *Los Angeles Times*, Nov. 20, 1942; *Japanese American Review*, Sept. 21, Oct. 19, Nov. 16, 1940; March 8, April 19, May 3, May 17, June 28, July 26, Sept. 6, Oct. 4, Oct. 18, Nov. 29, 1941.

[370]*New York Times*, Dec. 9, Dec. 13, Dec. 15, 1941, Jan. 10, 1942; *Pacific Citizen*, Jan. 1942, March 1942.

[371]*California Daily News*, Jan. 28, Jan. 30, Jan. 31, Feb. 7, 1942; *Pacific Citizen*, Jan. 1942, Feb. 1942, June 4, June 18, 1942.

[372]*California Daily News*, Jan. 30, 1942; *Tolan Committee Report* of May, 1942, pp. 152-54.

[373]*California Daily News*, February 10, 1942; *Pacific Citizen*, March 1 1942.

such as the Nisei Democratic Club of Oakland, California which had supported an embargo on war materials to Japan and an embargo on oil shipments to Japan long before Pearl Harbor, redoubled their efforts on behalf of the cause of the democracies.[374] Even after evacuation, when a war poster contest was announced, nisei confined at Santa Anita sent in a number of entries.[375] And from behind barbed wire, too, they called for a second front in Europe, an opportunity to aid in the war effort, and they continued to contribute money and blood.[376] American Legion Posts formed anew within the Assembly and Relocation Centers and nisei at Manzanar and Poston manufactured camouflage nets for the army.[377] Men and women, some of whom had never done agricultural work before, went out in unrestricted regions to pick and save vital crops.[378] Those who had been living in the east and who had never been evacuated gave ample evidence of their patriotism, too. On the 12th anniversary of the start of the Japanese drive on Manchuria, twenty-five persons of Japanese ancestry, members of the Japanese American Committee for Democracy, appeared in New York at the Chinese Blood Bank, and donated blood for the soldiers of Free China.[379] When the Bataan atrocities were announced, the reply of the American Japanese was

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[374] *Hearings before the Select Committee Investigating National Defense Migration* (Tolan Committee), pp. 11221, 11222.

[375] *Los Angeles Times*, July 16, 1942.

[376] *Los Angeles Daily News*, Aug. 15, 1942; *Pacific Citizen*, July 2, July 30, Aug. 20, 1942, Mar. 11, 1943.

[377] *Pacific Citizen*, Oct. 15, Oct. 29, Nov. 5, 1942; Feb. 25, 1943.

[378] *Ibid.*, February 25, 1943.

[379] *The New Republic*, item in the "Mail Bag," October 4, 1943; *Pacific Citizen*, September 5, 1943.

the most eloquent of all. They came in numbers to the Red Cross Banks to offer their blood in protest.[380]

The greatest and sometimes the final proof of loyalty to a country during a time of war is cheerful and heroic military service. At the time of Pearl Harbor there were over 3,000 young Americans of Japanese ancestry in the armed services.[381] The officer who commanded and trained many of them has testified to their excellent conduct and ability.[382] Today there are over 10,000 Americans of Japanese ancestry in service.[383] Their exploits and brave victories have since shamed and softened the most hardened critics of the group. Recently William P. Haughton, Commander of the California Department of the American Legion, said:

> "Numerous persons of Japanese ancestry are now serving with the armed forces of our country on the battlefronts, and according to all reports, are serving valiantly and well.
>
> "We salute all men and women who love this country enough to fight, and, if need be, die for it. Every person good enough to fight for us is entitled to our respect and equal protection under our constitution."[384]

It is not unusual for parents and sisters who are detained behind barbed wire in Relocation Centers to have

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[380] *San Francisco Chronicle*, Feb. 1, 1944; *Pacific Citizen*, Feb. 5, 1944, Feb. 12, 1944; *Los Angeles Times*, Jan. 29, 1944.

[381] *Hearings before the Select Committee Investigating National Defense Migration* (Tolan Committee), p. 11151.

[382] *Pacific Citizen*, February 18, 1943.

[383] *Ibid.*, Mar. 11, 1943.

[384] *Ibid.*, May 18, 1944.

3, 4, 5 and even 6 sons and brothers in the United States Army.[385] When, in February, 1943, the call came for volunteers for a United States Army combat unit, 1,300 young men volunteered for service from the Centers despite all that had happened to them and to their families.[386] The Nisei 100th and 442nd Infantry Battalions are best known for their gallant and important battles in Italy and for the citations and awards these have brought,[387] but it is now recognized that Japanese-Americans have fought for the United States on every battlefield of the war, and in the Pacific as well as in Europe. Americans of Japanese ancestry were at Pearl Harbor on December 7, 1941, where Private Tadao Migita died while defending Wheeler Field from enemy attack,[388] and where a Nisei National Guardsman, as Colonel E. W. Wilson has revealed, captured the first enemy soldier who fell into American hands in this war.[389] Sergeant Arthur Komori participated in the defense of the Philippines and was evacuated from Bataan at the last moment, escaping to Australia with some of General MacArthur's forces.[390] Sergeant Frank Fujita Jr. fought the Japanese in Java, and his mother has been notified that he is a prisoner of the Japanese.[391] Sergeant Fred Nishitsuji, formerly of

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[385] *Ibid.*, Oct. 23, Aug. 14, Mar. 25, 1943; July 22, Aug. 19, 1944.

[386] *Ibid.*, Mar. 11, 1943.

[387] *News Week*, Nov. 8, 1943; *Honolulu Star Bulletin*, Aug. 28, 1944; *St. Louis Post Dispatch*, July 29, 1944; *San Francisco Chronicle*, July 28, 1944; *Milwaukee Journal*, April 5, 1944.

[388] *Pacific Citizen*, September 10, 1942.

[389] *Ibid.*, March 18, 1943.

[390] *Ibid.*, August 20, 1942.

Los Angeles, is known to have participated in the bloody Buna campaign.[392] It is also known that Sergeant Ralph Kimoto has been on active duty in the jungles of New Guinea.[393] and the War Department announced on August 15, 1943, that Sergeant Kazuo Komoto had been wounded in action in the Southwest Pacific.[394] It is a commentary on the DeWitt method of determining loyalty that Sergeant Komoto's mother had to receive this news at the Gila Relocation Center to which she had been evacuated from California. Sergeant Ben Moriwaki and Sergeant Roy Ashizawa are nisei soldiers who landed at Attu looking for the Japanese enemy,[395] and Sergeant Kuni Nakao has been on duty in the Alaskan war theater.[396] On August 19, 1944, it was disclosed that American soldiers of Japanese ancestry had taken part in the capture of Saipan. Six of them, including a former resident of Marysville, California and another from Los Angeles, California, were cited and decorated for meritorious service in action there.[397] In a letter which has been made public, H. V. Kaltenborn, well-known radio commentator, has written:

"I have just returned from a comprehensive, although, brief tour of our Pacific fighting areas.

"On the basis of first-hand information I can tell you that American citizens of Japanese ancestry are

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[392] *Ibid.*, Dec. 3, Dec. 24, 1942.

[393] *Ibid.*, August 21, 1943.

[394] *Ibid.*, August 21, 1943.

[395] *Ibid.*, July 10, 1943.

[396] *Ibid.*, Oct. 2, 1943.

[397] *Los Angeles Times*, Aug. 20, 1944; *San Francisco Chronicle*, Aug. 21, 1944; *Los Angeles Daily News*, Aug. 19, 1944.

performing some of the most valuable work that is being done by our Armed Forces in the Pacific. These American citizens of Japanese ancestry have not only proved their loyalty, but in many cases they have voluntarily risked their lives in order to perform important front-line services."[398]

It has been necessary to present the evidence concerning the assimilation, loyalty and contributions of Americans of Japanese ancestry because, under the stress of war, a tendency has set in to accept uncritically anything derogatory that is said about a group which can be somehow associated, if only by means of a name or label, with the enemy Japanese. Actually the subject of the assimilation and Americanism of the citizens of Japanese ancestry has been intensively studied a number of times by impartial and able investigators, and there is little excuse for the gullibility and misinformation that surrounds the topic today.

As long ago as 1928, Dr. Robert E. Park, chairman of the Department of Sociology of the University of Chicago, directed a large-scale study of resident Orientals which was called "Survey of Race Relations of the Pacific Coast." A number of publications resulted, and the large body of materials which were gathered were placed in a depository of the Survey at Stanford University. The undertaking was ambitious and extensive, being supported by a $55,000 budget. Scholars and leading citizens of the West Coast as well as from other parts of

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[398]Letter of H. V. Kaltenborn to Adalia Fisher of the Committee for work with Japanese, St. Louis, Missouri, dated Dec. 20, 1943.

the country participated in the research.[399] Dr. Park and his associates, to sum up their findings as far as assimilation is concerned, determined that the American of Japanese ancestry "born in America and educated in our western schools is culturally an Occidental, even though he be racially an Oriental, and this is true to an extent that no one who has investigated the matter disinterestedly and at first hand is ever likely to imagine."[400]

In 1929 a substantial grant was made to Stanford University by the Carnegie Corporation, for a study of Americans of Japanese ancestry on the West Coast. The work was carried out under the direction of Professor E. K. Strong and resulted in the appearance of four volumes, the first published in 1933.[401] A large staff of trained workers co-operated to gather and analyze the materials. Every device known to social science was employed. The general conclusion, to use Professor Strong's own words, was that:

> "The word 'assimiliation' has two meanings—interbreeding and comprehension of political and social conditions. In the latter sense, the young Japanese are more readily assimilated than people of several European races. . . ."[402]

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[399]Robert E. Park, "A Race Relations Survey," *Journal of Applied Sociology*, Vol. VIII, No. 4, 1924, pp. 195-205; see also *Survey of Race Relations, A Study of the Orientals on the Pacific Coast*, Southern California Regional Committee, 731 South Hope Street, Los Angeles, 1926.

[400]Robert E. Park, "Behind Our Masks," *Survey*, May 1, 1926, p. 139.

[401]E. K. Strong, *Japanese in California*, Stanford University Press, 1933; E. K. Strong, *The Second-Generation Japanese Problem*, Stanford University Press, 1934; E. K. Strong and others, *Vocational Aptitudes of Second-Generation Japanese in the United States*, Stanford University Press, 1933; Reginald Bell, *Public School Education of Second-Generation Japanese*, Stanford University Press, 1935.

[402]E. K. Strong, *The Second-Generation Japanese Problem*, p. 26.

Through the years there have been a number of other studies and investigations by impartial and competent students and they all support the findings of Strong and Park.[403]

In all the loose talk about "lack of assimilation" and "close-knit racial groups" there is no hint that the trained investigators who have pursued the subject for years were even consulted. The Tolan Committee called politicians and sheriffs before it to testify concerning questions of assimilation and acculturation. The men who had made a life study of these questions, Professors Strong, Bell and Farnsworth of Stanford and Professor Bogardus of the University of Southern California, among others, were never consulted or approached. We talk a great deal about the irrationality and anti-intellectualism of the Nazis and Fascists, of their appeal to violent prejudice and emotion instead of to knowledge. The Nazi pattern was never better exemplified than in this particular crisis. With good reason has Professor Freeman written:

> "When the final history of the Japanese evacuation is written, it will almost certainly appear that decisions were made on misinformation, assumptions, prejudices, half-truths, when excellent, scientifically accurate material was available."[404]

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[403]Darsie, Marvin L., "The Mental Capacity of American-born Japanese Children," *Comparative Psychology Monograph*, Vol. III, Baltimore, Williams & Wilkins Co., 1926; R. D. McKenzie, *Oriental Exclusion*, Chicago University of Chicago Press, 1928; E. C. Mears, *Resident Orientals on the American Pacific Coast*, 1928; Harry A. Millis, *The Japanese Problem in the United States*, New York, Vanguard Press, 1942; William C. Smith, *Americans in the Making: The Natural History of the Assimilation of Immigrants*, Appleton-Century, 1939; Marjorie R. Stearns, *History of the Japanese People in Oregon*, Thesis Series, No. 4; University of Oregon, Eugene, Oregon, 1937.

[404]Harrop A. Freeman, *Op. cit.*, p. 449.

There is little need to deal at length with the argument that Americans of Japanese ancestry would have turned upon the country of their birth because of past discrimination and mistreatment. The argument itself is a twisted and peculiar one, implying that the cure for injustice is more injustice. It gives to racists a powerful weapon to use at some future time against any minority which has experienced local prejudice—against Negroes, Jews, Catholics, Mexicans and Orientals other than Japanese. If this conception is accepted by the Courts, no minority group can ever "be above suspicion." The facts we have reviewed dispose of this argument as far as Americans of Japanese ancestry are concerned. As we have shown, these citizens were making rapid and remarkable progress in educational, artistic, scientific and economic endeavors. They had reason to be proud of their achievements and they were proud of their achievements. If they had their enemies among Caucasions they also had many kind and powerful friends. To the question of whether they would aid an enemy for *any* reason, history has given an unequivocal answer. The reaction of those of Japanese ancestry in Hawaii when the attack came and the services which have since been rendered to the country's cause in all theaters of war by Americans of Japanese ancestry is the complete rejoinder to this unworthy rationalization.

We ask this Court to review the evidence we have submitted with particular care, because in the *Hirabaya-*

shi case it accepted much too easily the assumptions and broad charges that we have gone to some trouble to answer here. The Opinion of the Court in the *Hirabayashi* decision refers to conditions which "have in a large measure prevented their assimilation as an integral part of the white population."[405] It accepts without question the assertion that "there has been relatively little social intercourse between them and the white population."[406] It speaks of their "isolation"[407] and, most disturbing of all, it justifies the imposition of a curfew by reference to "ethnic affiliations with an invading enemy."[408] We contend that whatever affiliation citizens of Japanese ancestry may have with the Pacific enemy is of a general biological nature. We contend that the ethnic affiliations of these people are solidly with America. To assert otherwise is to ignore the rich store of evidence that scholarship and history have heaped high for us, and is to imply the Nazi doctrine that race and physical type determine loyalty and "ethnic affiliations."

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[405] *Hirabayashi v. United States*, Opinion of the Court, p. 96.

[406] *Ibid*, p. 98.

[407] *Idem*.

[408] *Hirabayashi v. United States*, Opinion of the Court, p. 101.

12. Evacuation Was Not a Military Necessity But Was Due to False Reports of Sabotage in Hawaii, to the Activites of Anti-Oriental Pressure Groups and Unscrupulous Competitors, and Most Important of All, to the Admitted Race Prejudice of the Commanding General Who Issued the Evacuation Orders.

We have spoken of the intial tendency of the people of the West Coast to be calm and reasonable, and to distinguish between the Japanese enemy and our residents and citizens of Japanese ancestry. What then, induced so many of them who felt that what was happening was basically wrong and unconstitutional, to permit evacuation to take place? On February 13, 1942 the *Argonaut*, which had pleaded for tolerance but a few weeks before, published an editorial which is titled, "Intern all Japanese." In the editorial we find these amazing sentences:

> "In making such a recommendation the *Argonaut* is duly conscious of the legal problems involved. It recognizes that in advocating such an action it is urging that the Constitution of the United States be violated. It fully realizes the gravity of such a move."[409]

Only panic would drive responsible men to advocate doing something that at the same time they admit is illegal and wrong. What was the nature of this paralyzing fear?

Between December 7 and the time when the evacuation policy was determined, it became the belief of the great majority of our citizens that the Pearl Harbor attack

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[409] "Intern All Japanese" (editorial), *The Argonaut*, Vol. CXXI, No. 3353, February 13, 1942, p. 3.

was effectively aided by betrayal from within on the part of persons of Japanese ancestry in Hawaii. Largely because of that belief, high officials sanctioned the evacuation of Americans of Japanese ancestry from the west coast of the United States. Because of that belief, millions of fellow citizens stood by and permitted something to happen that was repugnant in principle to them. Because they did not *at the time* have the relevant facts to refute this belief, others who doubted the necessity and wisdom of the move remained silent or were silenced.

The thoroughly discredited Pearl Harbor rumors have become a source of embarrassment to the proponents of evacuation. They now like to omit any reference to this unsavory episode. Yet, it is an indisputable fact that the myth of sabotage in Hawaii was the screen behind which racists could patriotically mask their ugly and longstanding intentions. It was the disguise in which the unscrupulous marched to acquire the fruits of envy and avarice. It was the weapon with which those who would normally have stood firm for justice and democratic action were cowed. During the crucial period it was the tool everywhere of unreason, panic, malice, and reaction.

Every person who was active in the formulation of the evacuation policy was greatly influenced by the Pearl Harbor sabotage and fifth column activity reports. The great majority of the pro-evacuation individuals and groups have admitted that these reports were an important factor in their decision and their stand. Almost without exception, they went on record as demanding the removal of persons of Japanese ancestry from the west coast so that the internal betrayal which they insisted ac-

counted for Pearl Harbor would not be duplicated on the west coast.

It has since been proved, by official documents and statements from the highest and most responsible army, navy, intelligence and civil officials in Hawaii that there was no sabotage or evidence of disloyalty on the part of those of Japanese ancestry in the Territory of Hawaii before, during, or after the attack on Pearl Harbor. Evacuation, then, was urged to prevent a "repetition" on the mainland of the United States of something which never occurred in Hawaii.

One of the most important figues in the movement for total evacuation was Mayor Fletcher Bowron of Los Angeles. On February 5, he delivered a radio address which opened the campaign for removal in Southern California. The degree to which this city official's thinking was dominated by Pearl Harbor rumors and alarms can best be judged by this excerpt from his speech:

> ". . . The most natural thing would be for the most dangerous of them to condemn the Japanese war clique, the Axis powers, to loudly declare a prejudice against Japan and proclaim a belief in American democracy with an emotional pledge of allegiance to the Stars and Stripes. Of course, they would try to fool us. They did in Honolulu and in Manila, and we may expect it in California. . . ."[410]

The apprehension and misconceptions of Mr. Bowron were shared, almost without exception, by members of Congress, particularly by Congressmen from the west and

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[410] *Congressional Record*, February 9, 1942, pp. A504-05.

south. On February 18, Representative Costello of California replied from the floor of the House to the suggestion that the Department of Justice was performing its duty efficiently and that harsh measures were not necessary. On the basis of the Pearl Harbor rumors, which he accepted without question or examination, he enunciated the pernicious doctrine of preventive arrest:

> "I may state to the gentleman that he, likewise, fails to understand the problem. You cannot wait until a crime is committed and then go to a grand jury and demand that the certain person who committed the crime be put in prison. What we have to do is anticipate the commission of a crime. We have to move before any sabotage takes place, and, if you do not move in advance of that sabotage, Pearl Harbor will be insignificant compared with what could happen on the Pacific Coast. . . ."[411]

Mr. Costello was followed by Representative Angell, who had been apparently no more critical of the Pearl Harbor reports than his colleagues. Said this western Congressman:

> "We must not wait, as we did at Pearl Harbor, until it is too late. Is it reasonable to assume that in the case of Pearl Harbor we were powerless to do anything to protect ourselves when those Japanese were located all around that strategic area ready and poised to bomb into eternity our peaceful citizens and blow up our defenses? . . . I urge that all Japanese be evacuated forthwith from these areas and be held in protective custody."[412]

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[411] *Ibid.*—House, February 18, 1942, p. 1456.

[412] *Ibid.*—House, February 18, 1942, p. 1457.

On February 18, Representative Rankin of Mississippi revealed his complete acceptance of the sabotage reports:

> ". . . These Japs who had been there for generations were making signs, if you please, guiding the Japanese planes to the objects of their iniquity in order that they might destroy our naval vessels, murder our soldiers and sailors, and blow to pieces the helpless women and children of Hawaii."[413]

On February 23, 1942, Mr. Rankin spoke on the same subject again. He began by saying: "Mr. Speaker, I want to renew my insistence that the Japanese in this country, in Alaska, and in Hawaii be placed in concentration camps at once." He had not proceeded long before he revealed his basic reason for this unprecedented request:

> "It is well known that Hawaiian-born Japanese, who claim the protection of the American flag, were giving information to Japan by radio, telephone, flashlight, and other signals prior to and during the Pearl Harbor attack and have been doing so since—just as these American-born Japs are now doing along the Pacific Coast. . . ."[414]

The Pearl Harbor fifth column and sabotage rumors, not only were the principal motive and excuse advanced by congressmen for evacuation, but were also the principal argument urged for the passage of Public Law 503, 77th Cong., 2d sess., ch. 191, which provides penalties for the violation of restrictions or orders pertaining to evacuation. This bill was introduced on March 19, 1942

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[413] *Ibid.*, February 19, 1942, p. A692.

[414] *Ibid.*, February 28, 1942, p. A839.

by Senator Reynolds of North Carolina and he managed to pack some of the most fantastic and childish of the tattle into his address:

> "We will remember Pearl Harbor. We recall that the invading forces certainly were provided aid from Japanese on land on the island of Oahu, which, I understand, is the only island of the Hawaiian group that is anywhere near properly fortified at the present hour. The report reaches us that canefields were cut in the form of arrows pointing to military objectives; that vegetable dealers and merchants kept detailed records of purchased naval supplies in order to gage fleet movements; and that fishing sampans are believed to have been in touch with ships of the Japanese fleet, or certainly with agents of the Japanese military intelligence division. . . .
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> "When the vicious attack of December 7 came, Japanese are reported to have wrecked cars and otherwise obstructed traffic. It is revealed that Japanese pilots shot down above Pearl Harbor were found to be wearing Honolulu high-school insignia and United States college rings, and one person, later arrested as a spy, had been a highly regarded Honolulu citizen for 20 years."[415]

In February and early March, the Select Committee Investigating National Defense Migration of the House of Representatives (Tolan Committee) went to the west coast and held hearings on the "Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones." It is important to examine the published records of the hearings, for these meetings brought together many

[415] *Ibid.*—Senate, February 19, 1942, pp. 2814-2815.

of the persons and all the arguments which were responsible for evacuation.

The Hearings began in San Francisco and the first witness who testified on the morning of February 21 was Mayor Angelo J. Rossi. He was alarmed at what the "fifth columnists" had done at Pearl Harbor and was most suspicious of American citizens of Japanese ancestry:

> "The Japanese situation should be given immediate attention. It admits of no delay. The activities of the Japanese saboteurs and fifth columnists in Honolulu and on the battle fronts in the Pacific have forced me to the conclusion that every Japanese alien should be removed from this community. I am also strongly of the conviction that Japanese who are American citizens should be subjected to a more detailed and all-encompassing investigation. After investigation, if it is found that these citizens are not loyal to this country they too, should be removed from the community."[416]

Into the testimony of this first day, too, was introduced a letter from Matthew Brady, District Attorney of the City and County of San Francisco, to Earl Warren, then Attorney-General of the State of California. Mr. Warren had asked whether there was any danger of sabotage and fifth column activity and whether there should be differential treatment of aliens according to nationality. Since Mr. Warren, now Governor of California, is known to be a prominent member of the most bitterly anti-Oriental organization in existence, The Native Sons of

[416] *Hearings Before the Select Committee Investigating National Defense Migration* (Tolan Committee), p. 10965.

the Golden West, Mr. Brady may have felt under some pressure in returning his answer. At any rate Mr. Brady replied:

> "Before answering the questions specifically, it occurs to me that I should state some general views I have, that to a great extent control my answers. I believe that if the Japanese should invade California, by airplane, submarine, or in any other way, they will have arranged to have in advance the assistance of various aides in our State. I can see no reason to anticipate that they will omit the precautions they took at Pearl Harbor."[417]

The star witness of the morning, however, was California's Attorney General Earl Warren himself. His entire argument for wholesale evacuation was based on analogies from assumed Hawaiian sabotage and fifth column activity, as the following excerpt from his testimony shows:

> "We believe that any delay in the adoption of the necessary protective measures is to invite disaster. It means that we, too, will have in California a Pearl Harbor incident. I believe that up to the present and perhaps for a long time to come the greatest danger to continental United States is that from well organized sabotage and fifth-column activity."[418]

The Hearings of February 23 saw a meeting of minds on the same topic between the chairman, Congressman

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[417] *Ibid.*, p. 10991.

[418] *Ibid.*, p. 11010.

Tolan, and W. J. Johnson, Captain of Police, Berkeley, California:

"The Chairman. . . . Sabotage will come when the attack comes. Do you agree with us on that?

"Mr. Johnson. Emphatically so. There is no question in my mind about that, Mr. Chairman. None of us knows what is going to happen here, but there is one thing of which we are dead certain. That is what has already happened at Pearl Harbor and we all know how it was brought about there. There is no question about that. That is factual, that is history. We know what happened there, but we don't know what might happen here in the future. However, it seems to me that it is fairly good thinking to believe that what happened there might well also happen here.

"The Chairman: In other words, at Pearl Harbor, Honolulu, there wasn't a single indication of sabotage until the attack happened?

"Mr. Johnson. Not until the correct time, the proper time.

"The Chairman. It was timed very well.

"Mr. Johnson. Surely."[419]

The absolute confidence of the committee members in their advance verdict of sabotage, and the naive supposition of witnesses that these Congressmen must have fresher, fuller, and more authentic information than the ordinary person, made extremely difficult and embarrassing testimony by citizens of Japanese descent, or by others speaking in their behalf. When the secretary of

[419] *Ibid.*, p. 11109.

the Japanese American Citizens League, Mr. Mike Masaoka, tried to plead for his group, he was immediately and unfairly put on the defensive by Mr. Tolan's simulated knowledge about Pearl Harbor:

> "The Chairman. What about your people at Pearl Harbor? Did they remain loyal Americans? . . . There are authentic pictures during the attack showing hundreds of Japanese old automobiles cluttered on the one street of Honolulu so the Army could not get to the ships. Are you conversant with those things?"[420]

Thus far, it might be mentioned, Mr. Tolan has not produced these "authentic pictures."

A little later another witness, a person of Japanese ancestry, tried to persuade the committee that the citizens had loyally cooperated with the authorities. The chairman, Mr. Tolan, promptly discomforted him by retorting:

> "Let me ask you this: the sabotage at the time of the attack of Pearl Harbor and the disloyalty of the Japanese there was so widespread that the details have never as yet been given to the public. Now what I would like to get from you is this: Do you think the Japanese of Hawaii stand on a different basis than the Japanese in California."[421]

By the time an "obstinate" witness, a representative of the C.I.O. appeared, Mr. Tolan was warmed to his subject. In answer to the witness' opinion that the regular

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[420] *Ibid.*, p. 11141.

[421] *Ibid.*, p. 11153.

agencies could control the situation without evacuation, the Chairman argued:

> "We had our F.B.I. in Honolulu, yet they had probably the greatest, the most perfect system of espionage and sabotage ever in the history of war, native-born Japanese. On the only roadway to the shipping harbor there were hundreds and hundreds of automobiles clogging the street, don't you see? There they sought to distinguish the Japanese in Pearl Harbor from our American Japanese. Do you think there is a distinction yourself? Do you think we can trust them?"[422]

After a further exchange between the chairman and the witness, Congressman Sparkman of Alabama intruded with a statement which effectively disposes of any argument that evacuation was a military necessity or a military decision:

> "Mr. Sparkman. It seems to me you completely disregard the fact that it was the action of the Japanese, both native-born and second-generation Japanese, in Hawaii that very largely caused this present situation."[423]

A moment later, when the witness asked Mr. Sparkman whether he thought that there was a higher percentage "of spies or saboteurs among the second-generation of Japanese" than "among the second-generation Germans in Yorkville, N. Y.," the Congressman replied:

> "Well, the only thing I can go by is what seems to be the case thus far—we know that we have lost ground so far because of the espionage, the sabotage

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[422] *Ibid.*, p. 1181.

[423] *Ibid.*, p. 11184.

conducted by the Japanese whom we trusted to a certain extent in Hawaii."[424]

The hearings held in Portland, Oregon, on February 26 revealed the same looseness of knowledge and speech on the part of the Committee and their evacuation minded friends. Whenever a witness opposed evacuation he was challenged and disconcerted by Pearl Harbor rumors paraded as a substantiated but not "released to the public" fact. When a Methodist Missionary who had had long years of contact and experience with people of Japanese ancestry, sought to defend their loyalty and their behavior, Chairman Tolan was ready with his stock reply:

> "Of course, you make a point there that we have heard several times in Washington; that there is no evidence so far as sabotage on the west coast. So far, there are no cases of sabotage; that is, generally speaking. Well, there weren't any in Pearl Harbor, either, were there, until the attack came? There wasn't any sabotage; it all happened at once."[425]

That evacuation of west coast persons of Japanese ancestry was being advocated on the basis, not of their own behavior, but on the basis of hypothetical misbehavior attributed to a group hundreds of miles away, emerged a number of times in the testimony:

> "Mr. Millikin. I feel that, due to the events of Pearl Harbor and events since that time, the sentiment of the people of Seattle is overwhelmingly in favor of evacuation. . . . That is my idea—and I am pretty sure it is the correct one—of the atti-

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424 *Ibid.*, p. 11184.

425 *Ibid.*, p. 11387.

tude of the city of Seattle. They think that it is a danger. They regret the train of circumstances that lead up to this decision today; but they know that we can't take the chance of leaving them here and having another Pearl Harbor or something worse right here in Seattle or in the Pacific Northwest."[426]

When James Y. Sakamoto, a past national president of the Japanese American Citizens League and editor of the *Japanese American Courier*, took the stand, Representative Arnold of Illinois made what was perhaps the most important revelation of the entire hearing:

"Mr. Arnold. *Of course, you probably recognize that if the Japanese in Honolulu and Hawaii had not conducted themselves as they did on December 7, that perhaps such drastic action would not be thought of in this area of the United States at this time.* (Emphasis supplied.)

"Mr. Sakamoto. Do I understand from that, that the Americans of Japanese ancestry in Hawaii did not contribute loyally toward the defense effort on that day, at the time of the attack?

"Mr. Arnold. Well, there is a good deal of evidence to that effect, yes.

"Mr. Sakamoto. Well, in that case, I am very sorry to hear about that, because here, if any such thing ever happened, you will find the Americans of Japanese ancestry. I am certain, 100 percent behind our defense efforts. We are willing to even sacrifice our lives."[427]

[426] *Ibid.*, p. 11404.

[427] *Ibid.*, p. 11477.

And while the Japanese and Japanese-Americans of the mainland were being pilloried and evacuated for the alleged misdeeds of the "Japanese" at Pearl Harbor, how were the people of Japanese ancestry in Hawaii faring? On February 5, in an interview in Honolulu, Dr. Romanzo Adams, author of *The People of Hawaii* and noted authority on Hawaiian racial and social problems, praised the military governor of Hawaii for "indicating his confidence in the people of Japanese extraction and giving them an opportunity to show their loyalty to the United States."[428] Dr. Adams particularly commended General Emmons because "he permitted many young Japanese-Americans to demonstrate their loyalty by acting as territorial guards . . . over public buildings, utilities, highways, and other vital points."[429]

In the spring of 1943 Colonel Kendall J. Fielder, chief of intelligence forces in Hawaii, summarized the policy that has been followed in Hawaii. He said:

> "I would like now to point proudly to another way in which our national administration and our government here—civil and military—have treated the race problem in Hawaii.
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> "In brief we have removed and shall continue to remove—for the national and local security—that minority of aliens and citizens here who are considered dangerous or potentially dangerous in time of war. We did not impugn, because of race, the good name of the rest of them, alien or citizen.

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[428] Interview with Romanzo Adams in Honolulu, February 4, 1942. Account reprinted in *California Daily News*, February 5, 1942.

[429] *Idem.*

"How differently a Himmler or a Heinrich would have handled this delicate situation! Does anyone believe for a moment that any of the Axis crowd would give one of enemy race a fair chance to prove himself? Yet that's what was done in Hawaii—and so far it has proved militarily sound. . . . It would take much too long to tell you of the many concrete ways in which many of these people who were *on the spot* have proved their love for America and have helped solve an otherwise ticklish military problem here. For the information of all who might be misled, there is none among us who has been led into this policy out of mawkish sentimentality, of gullibility. . . . Her (Japan's) army and navy must definitely be crushed. The question of Americans of Japanese blood is far different. They are Americans—and until they prove (or show themselves dangerously capable of proving) traitorous, they should be treated as Americans.

"This must not be construed as sentimentality, or hands-off for business reasons or anything else of a negative nature, but rather as a sane, reasonable, democratic and SAFE judgment. It is simply felt that the Japanese element of the population, if accepted and united in purpose and action, is an asset to the community."[430]

For obvious reasons Colonel Fielder was forced to use Himmler and Heinrich as examples of men who would have used a different approach. Actually, however, he must have been thinking, "How differently a DeWitt *has* handled this delicate situation!"

[430]Kendall J. Fielder, "Democracy and Military Necessity in Hawaii," an address delivered at the University of Hawaii, Thursday, March 25, 1943. Printed in *Hawaii Educational Review*, April, 1943, pp. 242-43.

As far as the handling of this issue is concerned, mainland United States and Hawaii have acted as though they were two separate nations motivated by altogether different philosophies and needs. One would never guess that two regions were fighting the same war, responding to the same "military necessity" and were being defended by the same army and navy. It is to be hoped that the contrast does not continue into legal thought and important court decisions. In April, 1944, when martial law in Hawaii was being challenged in the Courts, the Government used the same arguments that are now being used to justify evacuation. The numbers of persons of Japanese ancestry, dual citizenship of Japanese-Americans, language schools, and alleged "relationship of part of the population to the enemy," etc., were submitted as reasons for the maintenance of martial law. The United States District Court also heard the evidence concerning the good behavior of the Japanese population during and since the Pearl Harbor attack and of its contributions to the war effort in all its phases.[431] The District Court then ruled that martial law was no longer necessary for Hawaii. The nation and the world will be eager to learn whether the methods of Himmler, Heinrich and DeWitt or those of Emmons and Fielder are to be approved.

The war, and the numbing effect on fair-minded people of Pearl Harbor sabotage rumors, gave traditional anti-Oriental pressure groups and envious competitors an opportunity to "get rid of the Japanese." In his articles, "Racism on the West Coast," Mr. McWilliams has traced

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[431] United Press Dispatch of April 10, 1944, from Honolulu; quoted from *Milwaukee Journal*, April 10, 1944; see also *Time Magazine*, Sept. 6, 1943, p. 21; *Newsweek*, Sept. 6, 1943.

the activities toward this end of such race-conscious pressure groups as the Sons and Daughters of the Golden West and the California Joint Committee on Immigration.[432] The insincerity of the claims of these forces that they were concerned about "military necessity" and the nation's safety can be gauged from the fact that the Joint Committee on Immigration, though it called for evacuation of mainland Japanese, was "unalterably opposed" to the removal of "Japanese" from threatened Hawaii.[433] The reason, of course, was that evacuation from Hawaii would have meant removal to the mainland, and the aim of the Joint Committee has always been to reduce and not to augment the numbers of those of Japanese ancestry on the mainland. So in spite of all vocalizations, its long-time racial policy came first with the Joint Committee and national safety was a secondary consideration.

The duplicity of many "interested groups" which demanded evacuation on grounds of military necessity is shown in another manner. No sooner was their wish gratified than they proposed a long list of discriminatory measures aimed at the unfortunate evacuees. Clarence Hall has summed up the point in these words:

> "Not satisfied with having evicted the Japanese Americans, these elements are now trying to lock the doors behind them. Since evacuation a whole flock of discriminatory measures have been proposed—among them being efforts to void their citizenship, seize their property, disfranchise Nisei,

[432] Carey McWilliams, "Racism on the West Coast," *The New Republic*, May 29, 1944, pp. 732-33; June 12, 1944, pp. 784-85.

[433] Carey McWilliams, "Racism on the West Coast," May 29, 1944, p. 32.

> voters, and deport them to Japan after the war. Such post-evacuation efforts, carried on by the very same persons and groups whose word had the most weight in bringing on evacuation, are the strongest indication that military necessity had less to do with their motives than racial prejudice."[434]

A number of economic groups and their spokesmen, too, have found it most profitable to combine patriotism and business and to see "military necessity" and "national safety" in measures that eliminate their competitors. Some of them are amazingly frank about the material roots of their agitation.[435] We ask this Court to take judicial notice of the character of the groups which urged evacuation and of their obvious motivations. If pressure groups of this kind have found a formula acceptable to the courts for displacing those whom they dislike and for eliminating economic competitors, this nation will face a period of persecution and division that its free institutions may not be able to survive.

The civilians who, because they were influenced by Pearl Harbor sabotage rumors, became panic-stricken and requested evacuation or permitted it to occur without strong protest, did not know the facts. Perhaps the politicians and local authorities whom we have quoted, too,

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[434] Clarence Hall, "Inside Nisei America," *The Christian Advocate*, Oct. 29, 1942, p. 14.

[435] For evidences of economic motivation in evacuation and its aftermath see *Tolan Committee Report* of May, 1942, pp. 154-56; *American Nurseryman*, Oct. 1, 1942; *New York Times*, Feb. 22, 1942; (Special dispatch of Lawrence Davies of Feb. 21, from Salinas, California); *The Open Forum*, Aug. 5, 1944, p. 1; *Pacific Citizen*, Oct. 1, 1942; May 20, Oct. 16, 1943, July 22, 1944; Frank J. Taylor, "The People Nobody Wants," *Saturday Evening Post*, May 9, 1943, p. 24; *Hearings before the Select Committee Investigating National Defense Migration* (Tolan Committee), pp. 11432, 11584-11585, 11610-11611, 11254, 11242, 11243.

were ignorant. But General DeWitt, who ordered the evacuation, certainly must have been aware of the truth and must have been cognizant of the grounds on which his fellow officer, General Delos C. Emmons, refused to order mass internment or evacuation of the persons of Japanese ancestry in Hawaii.

Why then did General DeWitt, in spite of what he knew or could easily have learned, act upon the advice of racists and mean-spirited economic rivals? Why did he not allay hysteria by informing the public concerning the facts in Hawaii? No mainland officer spoke to the people of the West Coast as did General Emmons and Colonel Fielder to the people in Hawaii in order to halt rumor and fear.

We contend that General DeWitt accepted the views of racists instead of the principles of democracy because he is himself a confessed racist. This is no discovery of ours and it requires no extended argument on our part to prove this. General DeWitt has gone to unusual lengths to make perfectly clear his unalterable hostility, *on racial grounds*, to all persons of Japanese ancestry, regardless of citizenship and regardless of evidences of loyalty.[436]

In dealing with persons to be evacuated from the West Coast defense zone, General DeWitt has paid remarkably little attention to the military situation. We have already pointed out how his evacuation orders continued to be issued after the military situation was materially altered for the better. The day he permitted several thousand German and Italian aliens who had been ordered out of vital defense areas, to return to their former addresses,

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[436] For comments on General DeWitt's revelation of his prejudice see *Christian Century* (editorial), May 5, 1943, p. 532; Harrop A. Freeman, *Op. cit.*, p. 426.

was June 28, 1942.[437] This was the *day after* the announcement of the capture of the German saboteurs who had landed on our shores.

It was a different voice from that of the military realities to which General DeWitt harkened. His impetus to action is found in his statement:

> ". . . In the war in which we are now engaged racial affinities are not severed by migration.
>
> "The Japanese race is an enemy race and while many second and third generation Japanese born on United States soil, possessed of United States citizenship, have become 'Americanized,' the racial strains are undiluted. . . ."[438]

On April 13, 1943, in testifying before a House Naval Affairs Committee in San Francisco, General DeWitt amplified his stand. This time he said:

> "A Jap's a Jap. It makes no difference whether he is an American citizen or not. I don't want any of them. We got them out. They were a dangerous element. The West Coast is too vital and too vulnerable to take any chances. They are a dangerous element, whether loyal or not. It makes no difference whether he is an American citizen. Theoretically, he is still a Japanese and you can't change him. You can't change him by giving him a piece of paper. . . ."[439]

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[437] *New York Times*, June 29, 1942. (Special dispatch of June 28, from San Francisco.)

[438] *Final Report* of General DeWitt, p. 34.

[439] Associated Press Dispatches of April 13, 1943, carried in Metropolitan papers of April 14, 1943; see *Los Angeles Times*, April 14, 1944; *Los Angeles Daily News*, April 14, 1943; *San Francisco Chronicle*, April 14, 1943; and other West Coast papers.

Only one other man has, to our knowledge, used the same figure of speech in complaining that citizenship in his country was not at that time based upon considerations of race. This is Adolph Hitler, who wrote in *Mein Kampf:*

> "Today the right of citizenship is acquired, as above mentioned, primarily by birth within the boundaries of a state. Race or membership in the nation plays no part whatever. A negro who used to live in the German protectorates, and now has a residence in Germany, thus brings a 'German citizen' into the world if he has a child. In the same way any Jewish or Polish, African or Asiatic child can be declared a German citizen without more ado. . . . This conjuring trick is accomplished by a State President. What Heaven could not attempt, one of these Theophrastus Paracelsuses does in the turn of a hand. One scratch of the pen and a Mongolian ragamuffin is suddenly turned into a real 'German.'"[440]

Finally, we have it on the authority of Dr. Galen Fisher, that General DeWitt refused to allow hearings for persons of Japanese ancestry, because "it would be practically impossible to establish the loyalty of anyone of Japanese race."[441]

In his concurring opinion in the *Hirabayashi* case, Mr. Justice Douglas wrote: "We must credit the military with as much good faith . . . as we would any other public official acting pursuant to his duties."[442] We do not doubt the good faith of General DeWitt. We do not

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[440] Adolph Hitler, *Mein Kampf*, Stackpole Sons, 1939 edition, pp. 424-25

[441] Galen M. Fisher, "The Drama of Japanese Evacuation," *A Touchstone of Democracy*, p. 17.

[442] *Hirabayashi v. United States*, p. 106.

doubt the good faith and burning fanaticism of Adolph Hitler in his belief that the Jews of Germany must be removed and eliminated, and that no act of theirs could attest to their worth. But we do question the outlook upon which the faith of these men is based. The faith of the men who said "A Jap's a Jap." is not the faith of the man who wrote: "Loyalty is a matter of mind and of heart not of race. That indeed is the history of America. Moreover, guilt is personal under our constitutional system."[443] It is not the faith of the Court which proclaimed, "Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality."[444] It is not the faith of the man who asserted, "Distinctions based on color and ancestry are utterly inconsistent with our traditions and ideals."[445] We can only ask that in the decision now before them the members of this Court will keep that high faith which is the finest tradition of our land.

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[443] *Ibid.*, pp. 107-08.
[444] *Ibid.*, p. 100.
[445] *Ibid.*, p. 110.